

Michigan Register

Issue No. 15– 2007 (Published September 1, 2007)



GRAPHIC IMAGES IN THE MICHIGAN REGISTER

COVER DRAWING

Michigan State Capitol:

This image, with flags flying to indicate that both chambers of the legislature are in session, may have originated as an etching based on a drawing or a photograph. The artist is unknown. The drawing predates the placement of the statue of Austin T. Blair on the capitol grounds in 1898.

(Michigan State Archives)

PAGE GRAPHICS

Capitol Dome:

The architectural rendering of the Michigan State Capitol's dome is the work of Elijah E. Myers, the building's renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers' fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, few architectural renderings of the 19th century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

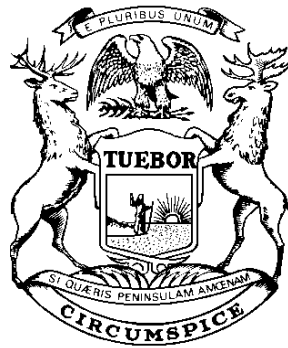
East Elevation of the Michigan State Capitol:

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

Michigan Register

Published pursuant to § 24.208 of
The Michigan Compiled Laws



Issue No. 15— 2007

(This issue, published September 1, 2007, contains
documents filed from August 1, 2007 to August 15, 2007)

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Peter Plummer, Executive Director, State Office of Administrative Hearings and Rules; **Deidre O'Berry**, Administrative Rules Analyst for Operations and Publications.

Jennifer M. Granholm, Governor



John D. Cherry Jr., Lieutenant Governor

PREFACE

PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The State Office of Administrative Hearings and Rules publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

MCL 24.208 states:

Sec. 8 (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

- (a) Executive orders and executive reorganization orders.
 - (b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.
 - (c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.
 - (d) Proposed administrative rules.
 - (e) Notices of public hearings on proposed administrative rules.
 - (f) Administrative rules filed with the secretary of state.
 - (g) Emergency rules filed with the secretary of state.
 - (h) Notice of proposed and adopted agency guidelines.
 - (i) Other official information considered necessary or appropriate by the State Office of Administrative Hearings and Rules.
 - (j) Attorney general opinions.
 - (k) All of the items listed in section 7(1) after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.22217.
- (2) The State Office of Administrative Hearings and Rules shall publish a cumulative index for the Michigan register.
 - (3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.
 - (4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the State Office of Administrative Hearings and Rules may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.
 - (5) An agency shall transmit a copy of the proposed rules and notice of public hearing to the State Office of Administrative Hearings and Rules for publication in the Michigan register.

MCL 4.1203 states:

Sec. 203. (1) The Michigan register fund is created in the state treasury and shall be administered by the State Office of Administrative Hearings and Rules. The fund shall be expended only as provided in this section.

- (2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.
- (3) The Michigan register fund shall be used to pay the costs preparing, printing, and distributing the Michigan register.
- (4) The department of management and budget shall sell copies of Michigan register at a price determined by the State Office of Administrative Hearings and Rules not to exceed cost of preparation, printing, and distribution.
- (5) Notwithstanding section 204, beginning January 1, 2001, the State Office of Administrative Hearings and Rules shall make the text of the Michigan register available to the public on the internet.
- (6) The information described in subsection (5) that is maintained by the State Office of Administrative Hearings and Rules shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the State Office of Administrative Hearings and Rules shall be made available in the shortest feasible time after it is made available to the State Office of Administrative Hearings and Rules.
- (7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).
- (8) The State Office of Administrative Hearings and Rules shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).
- (9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

CITATION TO THE MICHIGAN REGISTER

The *Michigan Register* is cited by year and issue number. For example, 2001 MR 1 refers to the year of issue (2001) and the issue number (1).

CLOSING DATES AND PUBLICATION SCHEDULE

The deadlines for submitting documents to the State Office of Administrative Hearings and Rules for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The State Office of Administrative Hearings and Rules is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, State Office of Administrative Hearings and Rules, Ottawa Building - Second Floor, 611 W. Ottawa, P.O. Box 30695, Lansing, MI 48933.

RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year.

Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

SUBSCRIPTIONS AND DISTRIBUTION

The *Michigan Register*, a publication of the State of Michigan, is available for public subscription at a cost of \$400.00 per year. Submit subscription requests to: State Office of Administrative Hearings and Rules, Ottawa Building - Second Floor, 611 W. Ottawa, P.O. Box 30695, Lansing, MI 48933. Checks Payable: State of Michigan. Any questions should be directed to the State Office of Administrative Hearings and Rules (517) 335-2484.

INTERNET ACCESS

The *Michigan Register* can be viewed free of charge on the Internet web site of the State Office of Administrative Hearings and Rules: www.michigan.gov/cis/0,1607,7-154-10576_35738---,00.html

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the State Office of Administrative Hearings and Rules Internet web site. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.

Peter Plummer, Executive Director
State Office of Administrative Hearings and Rules

2007 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
1	January 15, 2007	February 1, 2007
2	February 1, 2007	February 15, 2007
3	February 15, 2007	March 1, 2007
4	March 1, 2007	March 15, 2007
5	March 15, 2007	April 1, 2007
6	April 1, 2007	April 15, 2007
7	April 15, 2007	May 1, 2007
8	May 1, 2007	May 15, 2007
9	May 15, 2007	June 1, 2007
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ADMINISTRATIVE RULES
FILED WITH THE SECRETARY OF STATE

MCL 24.208 states in part:

“Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(f) Administrative rules filed with the secretary of state.”

ADMINISTRATIVE RULES

SOAHR 2006-004

DEPARTMENT OF LABOR AND ECONOMIC GROWTH

DIRECTOR'S OFFICE

CONSTRUCTION CODE

Filed with the Secretary of State on August 3, 2007

These rules take effect 120 days after filing with the Secretary of State

(By authority conferred on the director of the department of labor and economic growth by section 4 of 1972 PA 230, MCL 125.1504, and Executive Reorganization Order Nos. 1996-2 and 2003-1, MCL 445.2001 and 445.2011)

R 408.30901a, R 408.30905a, R 408.30906a, R 408.30907a, R 408.30908a, R 408.30909a, R 408.30910a, R 408.30915a, R 408.30918a, R 408.30927a, R 408.30935a, R 408.30936a, R408.30945a, and R 408.3995a of the Michigan Administrative Code are amended and R 408.30912a is added to the code as follows:

PART 9A. MECHANICAL CODE

AMENDMENTS AND ADDITIONS TO BASIC MECHANICAL CODE

R 408.30901a Adoption by reference of international mechanical code.

Rule 901a. The provisions of the international mechanical code, 2006 edition, except for sections 103.2, 103.4, 104.2, 106.5.1 to 106.5.3, 107.1.2 to 107.1.2.3, 109.2 to 109.7 and appendix B govern the construction, alteration, relocation, demolition, use and occupancy of buildings and structures. With the exceptions noted, the code is adopted in these rules by reference. All references to the International Building Code, International Residential Code, International Energy Conservation Code, International Electrical Code, International Mechanical Code, and International Plumbing Code mean the Michigan Building Code, Michigan Residential Code, Michigan Uniform Energy Code, Michigan Electrical Code, Michigan Mechanical Code, and Michigan Plumbing Code respectively. The code is available for inspection at the Okemos office of the Michigan department of labor & economic growth, bureau of construction codes. The code may be purchased from the International Code Council, 500 New Jersey Avenue, N.W., 6th Floor, Washington, D.C. 20001, or from the Michigan Department of Labor & Economic Growth, Bureau of Construction Codes, 2501 Woodlake Circle, Okemos, Michigan 48864, at a cost as of the time of adoption of these rules of \$50.00 each.

R 408.30905a Definitions.

Rule 905a. The definition of the act is added and the definition of code official is amended to read as follows:

202. "Act" means 1972 PA 230, MCL 125.1501. and known as the Stille-DeRossett-Hale single state construction code act.

“Code official” means a person who is appointed and employed by a governmental subdivision who is charged with the administration and enforcement of the state code or codes, and who is registered in accordance with 1986 PA 54, MCL 338.2301 to 338.2313.

R 408.30906a Work permit; submitting plans and specifications to authority.

Rule 906a. Sections 106.1, 106.2, 106.3, 106.3.1 106.4, 106.4.3 and 106.4.4 of the code are amended to read as follows:

106.1. Permits required. A contractor licensed pursuant to 1984 PA 192, MCL 338.971 to 338.988 who desires to erect, install, enlarge, alter, repair, remove, convert, or replace a mechanical system, the installation of which is regulated by this code, or to cause such work to be done, shall first make application in accordance with the requirements of the act.

Exception: A person who holds a valid boiler installer license issued under 1965 PA 290, MCL 408.751 to 408.776 shall secure a permit for the installation of a steam or hot water boiler which carries a pressure of not more than 15 psig for steam and 160 degrees Fahrenheit for hot water, and which is located in a private residence or in an apartment building having 5 or less dwelling units.

106.2. Permits not required. A person is not required to obtain a permit to perform mechanical work on any of the following items:

- (a) A portable heating or gas appliance.
- (b) Portable ventilation equipment.
- (c) A portable cooling unit.
- (d) A minor part that is replaced if the replacement does not affect equipment approval or make it unsafe.
- (e) A portable evaporative cooler.
- (f) Self-contained refrigeration equipment and a window-type air conditioner that is not more than 1.5 horsepower.
- (g) A boiler or pressure vessel for which a permit is required by sections 17 and 18 of 1965 PA 290, MCL 408.767 and 408.768.
- (h) An oil burner that does not require connection to a flue, such as an oil stove and a heater equipped with a wick.
- (i) A portable gas burner that has inputs of less than 30,000 Btu’s per hour.
- (j) When changing or relocating a gas meter or regulator, a permit is not required when installing gas piping which shall be limited to 10 feet in length and not more than 6 fittings.

106.3 Application for permit. Each application for a permit with the required fee, shall be filed with the code official on a form furnished for that purpose and shall contain a general description of the proposed work and its location. The contractor who is performing the work shall sign the application. The permit application shall indicate the proposed occupancy of all parts of the building and of that portion of the site or lot, if any, not covered by the building or structure and shall contain the information required by the act.

106.3.1 Construction documents. Construction documents, engineering calculations, diagrams, and other data shall be submitted in 2 or more sets with each application for a permit. The code official shall require construction documents, computations, and specifications to be prepared and designed by a registered design professional in accordance with 1980 PA 299, MCL 339.101 to 339.2919. Where special conditions exist, the code official may require additional construction documents to be prepared by a registered design professional. Construction documents shall be drawn to scale and shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that the work conforms to the provisions of this code. Construction documents for buildings more than 2 stories in height shall indicate where penetrations will be made for mechanical systems, and the materials and methods for maintaining required structural safety, fire-resistance rating and fire blocking.

Exception: The code official may waive the submission of construction documents, calculations or other data if the nature of the work applied for is such that reviewing of construction documents is not necessary to determine compliance with the code.

106.4. Permit issuance. The enforcing agency shall review the application, construction documents, and other data filed by an applicant for permit in accordance with the act. If the enforcing agency finds that the proposed work conforms to the requirements of the act, the code, and all other applicable laws and ordinances thereto, and that all fees prescribed by the act have been paid, then the enforcing agency shall issue a permit to the applicant.

106.4.3. Expiration. Each permit issued by the code official under the provisions of the code shall expire by limitation and become null and void if the work authorized by the permit is not begun within 180 days from the date of the permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is begun for a period of 180 days. Before work is recommenced, a new permit shall be first obtained, provided no changes have been made or will be made in the original construction document and that suspension or abandonment has not exceeded 1 year.

106.4.4. Extensions. A permittee holding an unexpired permit may apply for an extension of the time within which the permittee may begin work under that permit if for good and satisfactory reasons. The code official shall extend the time for action by the permittee for a period not exceeding 180 days if there is reasonable cause. No permit shall be extended more than once.

R 408.30907a Fees.

Rule 907a. Section 106.5 of the code is amended to read as follows:

106.5. Fees. The fees prescribed by the act shall be paid to the enforcing agency of the jurisdiction before a permit to begin work for new construction, alteration, removal, demolition, or other building operation may be issued. In addition, an amendment to a permit necessitating an additional fee shall not be approved until the additional fee is paid.

R 408.30908a Means of appeal.

Rule 908a. Section 109.1 of the code is amended to read as follows:

109.1. Means of appeal. An interested person may appeal a decision of the enforcing agency to the board of appeals in accordance with the act. An application for appeal shall be based on a claim that the true intent of the code or the rules governing construction have been incorrectly interpreted, the provisions of the code do not apply, or an equal or better form of construction is proposed. The decision of a local board of appeals may be appealed to the Construction Code Commission in accordance with the act and the applicable time frames.

R 408.30909a Violations.

Rule 909a. Section 108.4 of the code is amended to read as follows:

108.4 Violation penalties. Any person who violates a provision of this code, who fails to conform with any of the requirements thereof, or who erects, installs, alters, or repairs mechanical work in violation of the approved construction documents or directive of the enforcing agency, or a permit or certificate issued under the provisions of this code, shall be fined in accordance with the act.

R 408.30910a Stop work orders.

Rule 910a. Section 108.5 of the code is amended to read as follows:

108.5. Stop work orders. Upon notice from the enforcing agency that mechanical work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, the work shall immediately cease. Notice shall be in accordance with the act. A person who is served with a stop work order,

except for work that a person is directed to perform to remove a violation or unsafe condition, is subject to the penalty provisions prescribed by the act.

R 408.30912a Enclosed Parking Garages.

Rule 912a. Section 404.1 of the code is amended to read as follows:

404.1. Enclosed parking garages. Mechanical ventilation systems for enclosed parking garages are not required to operate continuously where the system is arranged to operate automatically upon detection of a concentration of carbon monoxide of 25 parts per million (ppm) by approved automatic detection devices. Upon activation such systems shall operate for 30 minutes.

R 408.30915a Scope of article; adoption by reference.

Rule 915a. Section 601.1 of the code is amended to read as follows:

601.1. The provisions of this article govern the construction, installation, alteration, maintenance, and repair of duct systems. Duct systems shall be in compliance with the provisions of the code, the provisions of NFPA 90A-2002 and NFPA 90B-2006, the standards of the national fire protection association, and the provisions of air conditioning contractors of America (ACCA) manual D-1995, manual J-2006, manual N-1988, and manual Q-1990, as listed in chapter 15.

R 408.30918a Registers, grilles, and diffusers.

Rule 918a. Section 603.17.2 of the code is amended to read as follows:

603.17.2. Prohibited locations. Diffusers, registers, and grilles shall be prohibited in the floor or its upward extension within toilet and bathing room floors.

Exception: Dwelling units. Within dwelling units, floor registers may be located in a room or space containing water closets, but shall be located a minimum of 3 feet from the water closet.

R 408.30927a Roofs and elevated structures.

Rule 927a. Sections 306.5 and 306.5.1 of the code are amended to read as follows:

306.5 Equipment and appliances on roofs or elevated structures. Where equipment and appliances requiring access are installed on roofs or elevated structures at a height that requires access exceeding 16 feet (4877 mm), such access shall be provided by a permanent approved means of access, the extent of which shall be from grade or floor level to the equipment and appliances' level service space. Such access shall not require climbing over obstructions greater than 30 inches (762 mm) high or walking on roofs having a slope greater than 4 units vertical in 12 units horizontal (33-percent slope). Where access involves obstructions greater than 30 inches in height, permanent ladders or equivalent, shall be provided on both sides requiring access in accordance with the ladder requirements of this section.

Permanent ladders installed to provide the required access shall comply with the following minimum design criteria:

1. The side railing shall extend above the parapet or roof edge not less than 30 inches (762 mm).
2. Ladders shall have rung spacing not to exceed 14 inches (356 mm) on center.
3. Ladders shall have a toe spacing not less than 6 inches deep.
4. There shall be a minimum of 18 inches (457 mm) between rails.
5. Rungs shall have a minimum 0.75-inch (19 mm) diameter and be capable of withstanding a 300-pound (136.1kg) load.
6. Ladders over 30 feet (9144 mm) in height shall be provided with offset sections and landings capable of withstanding 100 pounds (488.2 kg/m₂) per square foot.
7. Ladders shall be protected against corrosion in accordance with section 104.1 of the code.

Catwalks installed to provide the required access shall be not less than 24 inches (610 mm) wide and shall have railings as required for service platforms.

Exception: This section shall not apply to group R-3 occupancies.

306.5.1 Sloped roofs. Where appliances are installed on a roof having a slope of 3 units vertical in 12 units horizontal or greater and having an edge more than 30 inches above grade at such edge, a level platform shall be provided on each side of the appliance to which the access is required for service, repair, or maintenance. The platform shall not be less than 30 inches in any dimension and shall be provided with guards. The guards shall extend not less than 42 inches above the platform, shall be constructed so as to prevent the passage of a 21-inch-diameter sphere and shall comply with the loading requirements for guards specified in the Michigan building code. Access to appliances shall not require climbing over obstructions greater than 30 inches (762 mm) high or walking on roofs having a slope greater than 4 units vertical in 12 units horizontal permanent ladders, or equivalent, shall be provided on both sides requiring access in accordance with the ladder requirements of section 306.5.

Exception: This section shall not apply to group R-3 occupancies.

R 408.30935a Ventilation requirements for commercial kitchens.

Rule 935a Sections 506.1, 506.3.6, 507.1, 507.2.2, and 507.9, of the code are amended and sections 507.16.1.1 is added to the code to read as follows:

506.1. Ventilation requirements for commercial kitchens. Ventilation for commercial kitchens shall be in compliance with NFPA-96-2004, the standard of the national fire protection association listed in chapter 15.

506.3.6 Grease duct clearances. Grease duct systems and exhaust equipment serving a type I hood shall have clearances to combustibles as required by NFPA 96-2004, as listed in chapter 15.

Exception: Listed and labeled factory -built commercial kitchen grease ducts and exhaust equipment installed in accordance with section 304.1 of the code.

507.1 General. Commercial kitchen exhaust hoods shall comply with the requirements of this section and NFPA 96-2004, as listed in chapter 15. Hoods shall be type I or type II and shall be designed to capture and confine cooking vapors and residues.

Exceptions:

1. Factory-built commercial exhaust hoods which are tested in accordance with UL 710B-2004 or 197SB-2003, as listed in chapter 15, listed, labeled, and installed in accordance with section 304.1 shall not be required to comply with sections 507.4, 507.7, 507.11, 507.12, 507.13, 507.14, and 507.15 of the code.

2. Factory-built commercial cooking recirculating systems which are tested in accordance with UL 197-2003, as listed in chapter 15, listed, labeled, and installed in accordance with section 304.1 of the code shall not be required to comply with sections 507.4, 507.5, 507.7, 507.12, 507.13, 507.14, and 507.15 of the code.

3. Net exhaust volumes for hoods may be reduced during no-load cooking conditions, where engineered or listed multi-speed or variable-speed controls automatically operate the exhaust system to maintain capture and removal of cooking effluents as required.

507.2.2. Type II hoods. Type II hoods shall be installed where cooking or dishwashing appliances produce heat or steam and do not produce grease or smoke, such as steamers, kettles, pasta cookers, dishwashing machines, and ovens.

Exceptions:

1. Under-counter type commercial dishwashing machines.
2. A type II hood is not required for dishwashers and potwashers that are provided with heat and water vapor exhaust systems that are supplied by the appliance manufacturer and are installed in accordance with the manufacturer's instructions.
3. Ovens used for re-heating foods previously cooked.

507.9. Clearances for type I hood. A type I hood shall be installed with clearances from combustibles as required by NFPA 96-2004 as listed in chapter 15.

507.16.1.1 Smoke test. The field test identified in section 507.16.1 of the code shall be conducted in accordance with the smoke testing procedures established by the bureau of construction codes, which are available at no cost from the bureau's web site at www.michigan.gov/bcc, or, from the Michigan Department of Labor and Economic Growth, Bureau of Construction Codes, 2501 Woodlake Circle, Okemos, Michigan, 48864.

R 408.30936a Scope of article.

Rule 936a. Sections 1001.2 is added to the code and section 1004.3 of the code is amended to read as follows:

1001.2. Boilers. In addition to the other provisions of the code, this article governs the installation, alteration, and repair of water heaters and boilers. The installation of boilers shall be in compliance with the provisions of this code and the Michigan boiler code.

1004.3. Working clearance. Clearance shall be maintained around boilers, generators, heaters, tanks, and related equipment and appliances so as to permit inspection, servicing, repair, replacement, and visibility of all gauges. When boilers are installed or replaced, clearances shall be provided to allow access for inspection, maintenance, and repair. Passageways around all sides of the boiler shall have an unobstructed width of not less than 24 inches (610 mm), unless otherwise approved.

R 408.30945a Ventilation; exhaust.

Rule 945a. Sections 401.4.2, 501.2.1 and 504.4 of the code are amended to read as follows:

401.4.2 Exhaust openings. Outside exhaust openings shall be located so as not to create a nuisance. Exhaust openings shall not be directed onto walkways. Exhaust openings shall not terminate within 2 feet of a ventilated section in a soffit.

501.2.1 Location of exhaust outlets. The termination point of exhaust outlets and ducts discharging to the outdoors shall be located with the following minimum distances:

1. For ducts conveying explosive or flammable vapors, fumes, or dusts: 30 feet (9144 mm) from property lines; 10 feet (3048 mm) from operable openings into buildings; 6 feet (1829 mm) from exterior walls and roofs; 30 feet (9144 mm) from combustible walls and operable openings into buildings which are in the direction of the exhaust discharge; 10 feet (3048 mm) above adjoining grade.

2. For other product-conveying outlets: 10 feet (3048 mm) from the property lines; 3 feet (914 mm) from exterior walls and roofs; 10 feet (3048 mm) from operable openings into buildings; 10 feet (3048 mm) above adjoining grade.

3. For environmental air duct exhaust: 3 feet (914 mm) from property lines; 3 feet (914 mm) from operable openings into buildings for all occupancies other than group U, and 10 feet (3048 mm) from mechanical air intakes.

4. For specific systems: For clothes dryer exhaust, see section 504.4; for kitchen hoods, see section 506.3; for dust, stock and refuse conveying systems, see section 511.2; and for subslab soil exhaust systems, see section 512.4; for bathroom or kitchen exhaust in a residential dwelling see section 401.4.1.

504.4 Exhaust installation. Dryer exhaust ducts for clothes dryers shall terminate on the outside of the building, shall not terminate within 4 feet of a ventilated section in a soffit, and shall be equipped with a back draft damper. Screens shall not be installed at the duct termination. Ducts shall not be connected or installed with sheet metal screws or other fasteners that will obstruct the exhaust flow. Clothes dryer exhaust ducts shall not be connected to a vent connector, vent, or chimney. Clothes dryer exhaust ducts shall not extend into or pass through ducts or plenums.

R 408.30995a Automatic sprinkler systems generally.

Rule 995a. Sections 1600.0, 1600.1, and 1600.2 are added to the code to read as follows:

1600.0. Automatic sprinkler systems; fire suppression systems.

1600.1 Scope. The provisions of this article provide the minimum requirements for the design and installation of automatic sprinkler systems in all occupancies, except for 1- and 2-family dwellings.

1600.2. Installations. Installations shall be in compliance with the provisions of the code. Fire suppression systems shall be in compliance with the provisions of the building code and shall be installed in accordance with the code and NFPA-13-2002, NFPA-13D-2002, NFPA-13R-2002, and NFPA-24-2002 installation of sprinkler systems, installation of sprinkler systems in 1- and 2-family dwellings and manufactured homes, and installation of sprinkler systems in residential occupancies up to 4 stories in height, standards of the national fire protection association listed in chapter 15.

ADMINISTRATIVE RULES

SOAHR 2006-044

DEPARTMENT OF COMMUNITY HEALTH

DIRECTOR'S OFFICE

PSYCHOLOGY - GENERAL RULES

Filed with the Secretary of State on August 14, 2007

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of community health by sections 16145(3) and 18201 of 1978 PA 368, MCL 333.16145(3) and 333.18201 et seq. and Executive Order Nos. 1996-1, 1996-2, and 2003-1, MCL 330.3101, 445.2001 and 445.2011)

R 338.2503 of the Administrative Code is rescinded; R 338.2505, R 338.2506, R 338.2507, R 338.2510a, R 338.2511 and R 338.2514 are amended; and, R 338.2505a, R 338.2515 and R 338.2516 are added as follows:

R 338.2503 Rescinded.

R 338.2505 Examination for psychologist; passing scores; eligibility requirements.

Rule 5. (1) An applicant for a psychologist license shall meet the requirements for licensure as specified in R 338.2506(a) and (b).

(2) The board approves the examination for professional practice in psychology of the association of state and provincial psychology boards (asppb).

(3) An individual seeking licensure under MCL 333.18223(1) shall achieve a passing score of 500 as established by the asppb.

(4) If an applicant is a limited licensed psychologist who already took the examination specified in subrule (2) of this rule and achieved a passing score at or above the score required for licensure as a psychologist, then that test score may be used to fulfill the requirement in subrule (3) of this rule.

R 338.2505a Examination for psychologist limited license; passing scores; eligibility requirements.

Rule 5a. (1) An applicant for a psychologist limited license shall

March 15, 2007

meet the requirements for licensure as specified in R 338.2507(a) or (b)(i), (b)(ii) and (b)(iii).

(2) The board approves the examination for professional practice in psychology of the association of state and provincial psychology boards (asppb).

(3) An individual seeking licensure under MCL 333.18223(2) shall achieve a passing score of 450 as established by the asppb. This subrule shall take effect on June 30, 2010.

(4) An individual who was licensed under MCL 333.18223(2) prior to the effective date of subrule (3) of this rule shall not be required to take the examination specified in subrule (2) of this rule.

R 338.2506 Application for licensure; education, training, and experience requirements.

Rule 6. To be granted a license under MCL 333.18223(1), an applicant shall satisfy all of the following requirements:

(a) Education: An applicant shall possess either a doctoral degree in psychology or a doctoral degree in a closely related field from an institution that meets the standards in R 338.2511. Either degree shall comply with all of the following:

(i) The degree shall be an integrated, organized sequence of study that includes instruction in research design and methodology, statistics, psychometrics, and scientific and professional ethics and standards.

(ii) The degree shall include at least 1 graduate course, taken for credit, from 3 of the 4 following areas:

(A) Biological bases of behavior: physiological psychology, comparative psychology, neuropsychology, sensation and perception, and psychopharmacology.

(B) Cognitive-affective bases of behavior: learning, thinking, motivation, and emotion.

(C) Social bases of behavior: social psychology, group processes, and organizational and systems theory.

(D) Individual differences: personality theory, human development, and abnormal psychology.

(iii) The degree shall include at least 1 course in both assessment and treatment.

(iv) The degree shall include at least 1 graduate course, of at least 3 semester hours of credit or 15 hours of classroom instruction per semester hour, in the study of scientific and professional ethics and standards. This subrule shall take effect on June 30, 2009. If an applicant graduated prior to June 30, 2009 and his or her doctoral degree included a graduate course in scientific and professional ethics of at least one credit hour, the applicant shall be considered as complying with this subrule.

(v) Seventy-five percent of the hours required for the degree shall be primarily psychological in content. The dissertation and internship are excluded from what is considered course work. To be deemed psychological in content, a course shall satisfy at least 1 of the following criteria:

(A) Course work: The subject matter of the material taught is psychological.

(B) Psychology department: The course is taught in a psychology department.

(b) Training: An applicant shall have participated in an internship program that complies with all of the following:

(i) The internship provides the applicant with substantial opportunities to carry out major professional functions in the context of appropriate supervisory support.

(ii) The internship is an integrated part of the doctoral degree program; however, a postdoctoral internship may be recognized by the board if it meets the other requirements in this subdivision.

(iii) The internship takes place in an organized health care setting, as defined in R 338.2501(l)(b), or other arrangement receiving approval of the board.

(iv) The internship requires the applicant to work not less than 20 clock hours per week in the internship program.

(v) The internship requires not less than 2,000 clock hours of psychological work.

(vi) The applicant is supervised by a psychologist who is licensed in Michigan, eligible for licensure in Michigan, or who is licensed or certified at the independent practice level in the state where the internship takes place.

(vii) The applicant shall meet individually and in person with his or her supervisor for a minimum of 8 hours a month during the internship program. This subdivision takes effect January 1, 2006.

(viii) The internship is separate and distinct from the applicant's required experience in the practice of psychology.

(c) Experience: An applicant shall have acquired postdoctoral experience in the practice of psychology which meets all of the following criteria:

(i) The experience constitutes not less than 2,000 clock hours completed in not more than 2 consecutive years.

(ii) The experience shall be accumulated at not less than 16 clock hours per week nor more than 40 clock hours per week.

(iii) In cases of hardship, the board may consider a request for an extension of the time period identified in paragraphs (i) and (ii) of this subdivision.

(iv) The applicant shall function as a psychologist using generally accepted applications of psychological knowledge and techniques acquired during the applicant's education and training.

(v) The experience is acquired in an organized health care setting, as defined in R 338.2501(1)(b), or other arrangement receiving approval of the board.

R 338.2507 Application for limited license; education, training, and experience requirements.

Rule 7. To be granted a limited license under MCL 333.18223(2), an applicant shall comply with either of the following:

(a) Have been certified as a psychological examiner or eligible for certification as a psychological examiner under 1959 PA 257, MCL 338.1001 et seq. on or before September 30, 1978.

(b) Individuals who apply for licensure under MCL 333.18223(2) and who are not eligible under subdivision (a) of this subrule shall meet the following education, training, and experience requirements:

(i) Education: Applicants for a limited license shall have earned a master's degree in psychology from an institution that meets the standards provided in R 338.2511.

(ii) Individuals who are enrolled in a master's degree program that qualified them for a limited license before the effective date of this amendatory rule and who apply for a limited license within 5 years of the effective date of this amendatory rule shall be eligible for a limited license under MCL 333.18223(2). The degree required under this subdivision shall satisfy all of the following requirements:

(A) The degree shall be an integrated, organized sequence of study that includes at least 1 course in assessment, 1 course in treatment, and 1 course in scientific and professional ethics and standards. Effective June 30, 2009, the 1 course in scientific and professional ethics and standards shall be at least 3 semester hours or 15 hours of classroom instruction per semester hour. If an applicant graduated prior to June 30, 2009 and his or her master's degree included a graduate course in scientific and professional ethics of at least one credit hour, the applicant shall be considered as complying with this subrule.

(B) Seventy-five percent of the hours of the required course work shall be primarily psychological in content. The thesis and practicum are excluded from what is considered course work. The board may require the applicant to provide such material as it deems necessary to demonstrate the psychological content of a course. To be deemed psychological in content, a course shall satisfy at least 1 of the following criteria:

(1) Course work: The subject of the material taught is psychological.

(2) Psychology department: The course is taught in a psychology department.

(iii) Training: An applicant shall have participated in a practicum that complies with all of the following:

(A) The practicum shall be an integrated part of the master's degree program; however, a post-degree practicum may be recognized by the board if such a practicum is through an institution that meets the standards adopted in R 338.2511 and for which academic graduate credit is obtained. The practicum shall also meet the other requirements set forth in this paragraph.

- (B) The practicum requires not less than 500 clock hours of psychological work.
- (C) The applicant is supervised by a psychologist who is licensed or eligible for licensure in Michigan, or who is licensed or certified at the independent practice level in the state where the practicum takes place.
- (D) The applicant shall meet in person with his or her supervisor for a minimum of 8 hours a month during the practicum. This subparagraph takes effect January 1, 2006.
- (iv) Experience: Individuals applying after September 30, 1980, in addition to the requirements of paragraphs (i) and (ii) of this subdivision, shall have acquired 1 year of post-master's degree experience in the practice of psychology. To acquire the experience, the applicant shall obtain a temporary limited license for post-master's degree experience as provided in R 338.2507a. The experience shall comply with all of the following requirements:
 - (A) The experience shall constitute not less than 2,000 clock hours.
 - (B) The experience shall be accumulated at not less than 16 clock hours per week nor more than 40 clock hours per week.
 - (C) The applicant shall function as a psychologist using generally accepted applications of psychological knowledge and techniques acquired during the applicant's education and training.
 - (D) The experience shall be acquired in an organized health care setting, as defined in R 338.2501(1)(b), or other arrangement receiving approval by the board.
 - (E) The applicant shall be supervised by a psychologist who is licensed in Michigan, eligible for licensure in Michigan, or who is licensed or certified at the independent practice level in the state where the experience is obtained.
 - (F) The applicant shall meet individually and in person with his or her supervisor for a minimum of 4 hours a month during the 2,000 clock hours of post-master's degree experience. This subparagraph takes effect January 1, 2006.
 - (G) If a psychologist described in subparagraph (E) of this paragraph is unavailable, the applicant may seek the approval of the board for supervision by a limited licensed psychologist, a person who has been granted a master's degree in psychology and who has acquired not less than 3 years (6,000 clock hours) of post-master's degree experience in the practice of psychology, or another individual approved by the board.

R 338.2510a Supervision requirements; reporting of supervision.

Rule 10a. (1) An individual who is granted a limited license under MCL 333.18223(2) and is required to be supervised by a licensed psychologist shall meet all of the following requirements:

- (a) A licensee who has less than 10 years of experience as a limited licensed psychologist, excluding experience as a temporary limited licensed psychologist, shall meet individually and in person with his or her supervisor for a minimum of 2 hours a month.
 - (b) A licensee who has 10 or more years of experience as a limited licensed psychologist, excluding experience as a temporary limited licensed psychologist, shall meet individually and in person with his or her supervisor for a minimum of 1 hour a month.
 - (c) A licensee who seeks a variance from the supervision requirement described in subrule (1)(a) or subrule (1)(b) of this rule, as provided for in MCL 333.18223(2), shall submit a request for a variance to the board for consideration. Reasons for a possible variance include, but are not limited to, issues regarding physical disability, extended absence from practice, or geographical hardships. A variance shall not be implemented without the written permission of the board.
- (2) When renewing a limited license, a limited licensed psychologist shall report on the license renewal form the name, address, telephone number, and license number of his or her supervisor. The licensee

also shall report the starting date of the supervision. This subrule takes effect with the 2006 renewal cycle.

(3) When renewing a license, a licensed psychologist who is supervising a limited licensed psychologist shall report on the license renewal form the name, address, telephone number, and license number of each limited licensed psychologist that he or she supervises. The licensee shall also report the starting date of the supervision. This subrule takes effect with the 2006 renewal cycle.

R 338.2511 Accreditation; asppb/national register designation for doctoral programs; adoption by reference.

Rule 11. (1) To determine “regionally accredited” as provided in section 18223(1) and (2) of the code, the board adopts by reference the policy and procedures for recognition of accrediting organizations of the council for higher education accreditation (chea), effective January 2006, and the procedures and criteria for recognizing accrediting agencies of the U.S. department of education, effective July 1, 2000, as contained in Title 34, Part 602 of the Code of Federal Regulations. Copies of the standards and criteria of the council for higher education accreditation and the U.S. department of education are available for inspection and distribution at cost from the Board of Psychology, Bureau of Health Professions, Department of Community Health, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909. The chea recognition standards also may be obtained from the Council for Higher Education Accreditation, One Dupont Circle NW, Suite 510, Washington, DC 20036-1110, or from the council’s website at <http://www.chea.org>, at no cost. The federal recognition criteria also may be obtained from the U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202 or from the department’s website at <http://www.ed.gov> at no cost.

(2) The board adopts by reference the standards of the following postsecondary accrediting organizations, which are available for inspection and distribution at cost from the Board of Psychology, Bureau of Health Professions, Department of Community Health, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909. Copies of the following standards may be obtained from the individual accrediting organization at the identified cost:

(a) The standards of the Middle States Association of Colleges and Schools, Commission on Higher Education, 3624 Market Street, Philadelphia, PA 19104, set forth in the document entitled “Characteristics of Excellence in Higher Education: Eligibility Requirements and Standards for Accreditation”, 2004 edition, which is available free of charge on the association’s website at <http://www.msche.org> or for purchase at a cost of \$7.40 as of the time of adoption of these rules.

(b) The standards of the New England Association of Schools and Colleges, Inc., Commission on Institutions of Higher Education, 209 Burlington Road, Bedford, MA 07130, set forth in the document entitled “Standards for Accreditation”, 2005 Edition, which is available free of charge on the association’s website at <http://www.neasc.org> or for purchase at a cost of \$5.00 as of the time of adoption of these rules.

(c) The standards of the North Central Association of Colleges and Schools, the Higher Learning Commission, 30 North LaSalle Street, Suite 2400, Chicago, IL 60602, set forth in the document entitled “Handbook of Accreditation”, Third Edition, which is available for purchase through the association’s website at <http://www.ncahigherlearningcommission.org> at a cost of \$30.00 as of the time of adoption of these rules.

(d) The standards of the Northwest Association of Schools, Colleges, and Universities, the Commission on Colleges and Universities, 8060 165th Avenue NE, Suite 100, Redmond, WA 98052, set forth in the document entitled “Accreditation Handbook”, 2003 edition, which is available for purchase at a cost of \$20.00 as of the time of adoption of these rules, or through the association’s website at <http://www.nwccu.org>.

(e) The standards of the Southern Association of Colleges and Schools, Commission on Colleges, 1866 Southern Lane, Decatur, GA 30033, set forth in the document entitled “Principles of Accreditation: Foundations for Quality Enhancement”, copyright 2004, which is available free of charge on the association’s website at <http://www.sacscoc.org>.

(f) The standards of the Western Association of Schools and Colleges, the Accrediting Commission for Senior Colleges and Universities, 985 Atlantic Avenue, Suite 100, Alameda, CA 94501, set forth in the document entitled “Handbook of Accreditation”, January 2001, which is available free of charge on the commission’s website at <http://www.wascweb.org> or for purchase at a cost of \$20.00 as of the time of adoption of these rules.

(g) The standards of the Western Association of Schools and Colleges, Accrediting Commission for Community and Junior Colleges, 10 Commercial Blvd., Suite 204, Novato, CA 94949 set forth in the document entitled “Accreditation Reference Handbook”, August 2005, which is available free of charge on the commission’s website at <http://www.accjc.org>.

(3) For psychology doctoral programs, the board adopts by reference the following criteria and standards:

(a) The designation criteria of the national register of health service providers in psychology and the association of state and provincial psychology boards set forth in the publication entitled “Guidelines for Defining a Doctoral Degree in Psychology” April 2004, which is available for inspection and distribution at cost from the Board of Psychology, Bureau of Health Professions, Michigan Department of Community Health, 611 West Ottawa, Lansing, MI 48909. Copies of the guidelines are available at no cost from the National Register of Health Services Providers in Psychology, 1120 G St. NW, Suite 330, Washington, D.C. 20005 or at the national register’s website at www.nationalregister.org, or from the Association of State and Provincial Psychology Boards, P.O. Box 241245, Montgomery, AL 36124-1245 or at the association’s website at www.asppb.org.

(b) The accreditation guidelines and principles of the american psychological association as set forth in the publication entitled “Guidelines and Principles for Accreditation of Programs in Professional Psychology”, July 1, 2005, which is available for inspection and distribution at cost from the Board of Psychology, Bureau of Health Professions, Michigan Department of Community Health, 611 West Ottawa, Lansing, MI 48909. Copies of the guidelines are available at no cost from the American Psychological Association, 750 First Street NE, Washington, DC 20002-4242 or at the association’s website at <http://www.apa.org>.

(c) The accreditation standards of the Canadian psychological association as set forth in the publication entitled “Accreditation Standards and Procedures for Doctoral Programmes and Internships in Professional Psychology”, June 2002, which is available for inspection and distribution at cost from the Board of Psychology, Bureau of Health Professions, Michigan Department of Community Health, 611 West Ottawa, Lansing, MI 48909. Copies of the accreditation standards are available at no cost from the Canadian Psychological Association, 141 Laurier Avenue West, Suite 702, Ottawa, ON K1P 5J3 or at the association’s website at <http://www.cpa.ca/accreditation>.

(4) Completion of a doctoral program in psychology that has obtained the national register’s and association of state and provincial psychology boards’ designation or accreditation by either the American psychological association or the Canadian psychological association shall be evidence of completion of a program acceptable to the department and approved by the board. This subrule takes effect June 30, 2009.

R 338.2514 Advertising.

Rule 14. (1) “Advertising” means any representation that includes all of the following:

(a) Is purchased by or for a licensee.

(b) Offers or describes psychological services or abilities.

- (c) Is likely to be perceived by a reasonable member of the public as an advertisement.
- (2) A psychologist licensed under MCL 333.18223(1) may advertise unless such advertising is false or misleading. Advertising is false or misleading if it is any of the following:
 - Inaccurate.
 - Exaggerated.
 - Deceptive.
- (d) Omits a material fact that misleads or deceives the public.
- (e) Creates unjustified expectations.
- (f) Causes confusion or misunderstanding by the public.
- (3) A psychologist licensed under MCL 333.18223(1) who employs a limited licensed psychologist or a temporary limited licensed psychologist, who is licensed under MCL 333.18223(2), may advertise the individual's identity and qualifications. The advertisement shall do all of the following:
 - (a) Identify the individual's employer.
 - (b) Identify the individual as either a "limited licensed psychologist" or a "temporary limited licensed psychologist." Abbreviations or acronyms of the title are not permitted.
 - (c) Clearly and conspicuously display 1 or both of the following statements, as appropriate: "A Limited Licensed Psychologist may practice under the supervision of a Licensed Psychologist," or "A Temporary Limited Licensed Psychologist may practice under the supervision of a Licensed Psychologist."
 - (4) A limited licensed psychologist or a temporary limited licensed psychologist is prohibited from advertising or making any other representation to the public that leads the public to believe the individual is engaging in the practice of psychology. This subrule does not prohibit a limited licensed psychologist or a temporary limited licensed psychologist from buying, printing, and using business cards or letterhead for purposes of identification.
 - (5) An advertisement that identifies or names persons other than psychologists possessing a Michigan license or a Michigan limited license shall clearly disclose the professional identity of such persons.
 - (6) Licensed psychologists shall ensure their advertisements do not conflict with these rules. Licensed psychologists have the affirmative duty to review the final version of all paid advertisements before release to the public.

R 338.2515 Prohibited conduct.

Rule 15. Prohibited conduct includes, but is not limited to, the following acts or omissions by any individual covered by these rules:

- (a) Engaging in harassment or unfair discrimination based on age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, or socio-economic status, or any basis proscribed by law.
- (b) Involvement in a multiple relationship with a current or former patient or a member of his or her immediate family, when there is a risk of harm or exploitation to the patient. As used in this rule, "multiple relationship" means a relationship in which a licensee is in a professional role with an individual and 1 of the following occurs at the same time:
 - (i) The licensee is in another role with the same individual.
 - (ii) The licensee is in a relationship with an individual closely associated with or related to the individual with whom the licensee has the professional relationship.
 - (iii) The licensee promises to enter into another relationship in the future with the individual or with an individual closely associated with or related to the individual.
- (c) Taking on a professional role when personal, scientific, professional, legal, financial, or other relationships could impair the exercise of professional discretion or make the interests of a patient, supervisee, or student secondary to those of the licensee.

- (d) Taking advantage of any professional relationship or exploiting others to further the licensee's personal, religious, political, business, or financial interests, including inducing a patient, supervisee, or student to solicit business on behalf of the licensee.
- (e) Soliciting or engaging in a sexual relationship with a current supervisee or student.
- (f) Soliciting or engaging in a sexual relationship with a current patient or a member of his or her immediate family.
- (g) Soliciting or engaging in a sexual relationship with a former patient or a member of his or her immediate family within 2 years after the termination of the treatment or professional relationship. Disciplinary action is not precluded against a licensee who has a sexual relationship with a former patient or a member of his or her immediate family more than 2 years after the termination of treatment when there is a risk of harm or exploitation to the former patient.
- (h) Willful or negligent failure to arrange for the continuity of necessary therapeutic service.

R 338.2516 Patient records; retention; disposition; confidentiality.

Rule 16. (1) Patient records shall be preserved for a minimum of 7 years.

(2) Any individual covered by these rules shall store and dispose of written, electronic and other patient records so as to ensure their confidentiality, except as otherwise provided by law or pursuant to the written authorization of a patient specifically requesting or authorizing release or disclosure of the patient's psychological records.

**PROPOSED ADMINISTRATIVE RULES,
NOTICES OF PUBLIC HEARINGS**

MCL 24.242(3) states in part:

“... the agency shall submit a copy of the notice of public hearing to the State Office of Administrative Hearings and Rules for publication in the Michigan register. An agency's notice shall be published in the Michigan register before the public hearing and the agency shall file a copy of the notice of public hearing with the State Office of Administrative Hearings and Rules.”

MCL 24.208 states in part:

“Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(d) Proposed administrative rules.

(e) Notices of public hearings on proposed administrative rules.”

PROPOSED ADMINISTRATIVE RULES

SOAHR 2005-059

MICHIGAN DEPARTMENT OF COMMUNITY HEALTH
BUREAU OF HEALTH POLICY, PLANNING AND ACCESS
EMS AND TRAUMA SERVICES SECTION
STATEWIDE TRAUMA SYSTEM

Filed with the Secretary of State on

These rules take effect immediately after filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

Draft August 13, 2007

(By authority conferred on the department of community health by section 9227 and 20910 of 1978 PA 368, 2004 PA 580, 2004 PA 581, 2004 PA 582, and Executive Reorganization Order No. 1996-1, being MCL 333.9227, 333.20910, 333.1101 to 333.25211, 333.20910, 333.20908 and 330.3101)

R 325.125, R 325.126, R 325.127, R 325.128, R 325.129, R 325.130, R 325.131, R 325.132, R 325.133, R 325.134, R 325.135, R 325.136, R 325.137, and R 325.138 are added to the Michigan Administrative Code as follows:

PART 1. GENERAL PROVISIONS

R 325.125 Definitions; A to D.

Rule 1. As used in these parts:

(a) “2004 Michigan Trauma Systems Plan” means the same as the document entitled “Michigan Trauma Systems Plan” prepared by the Michigan trauma coalition, dated November 2003.

(b) “Accountable” means ensuring compliance on the part of each healthcare facility, trauma facility, life support agency, and emergency medical services personnel in carrying out emergency medical services based upon protocols established by the medical control authority and approved by the department.

(c) “ACLS course” means an advanced cardiac life support course targeted for pre-healthcare facility and healthcare facility personnel who are credentialed in advanced cardiac life support.

(d) “ACS” means the American college of surgeons.

(e) “Adult trauma patient” means an individual that is, or reasonably appears to be, 15 years of age or older.

(f) “ATLS course” means an advanced trauma life support course targeted for physicians with an emphasis on the first hour of initial assessment and primary management of an injured patient, starting

at the point in time of injury continuing through initial assessment, life-saving intervention, reevaluation, stabilization, and transfer when appropriate.

August 13, 2007

(g) “Administrative hearing” means a hearing conducted pursuant to the administrative procedures act, 1969 PA 306.

(h) “Board certified in emergency medicine” means current certification by the American board of emergency medicine, the American board of osteopathic emergency medicine, or other agency approved by the department that meets the standards of these organizations.

(i) “Code” means 1978 PA 368, MCL 333.1101 and known as the Michigan public health code.

(j) “Department” means the Michigan department of community health, or its duly appointed successor.

(k) “Direct communication” means a method of communication that ensures medical control authority supervision of a life support agency when performing emergency medical services through any of the following methods:

(i) Direct interpersonal communications at the scene of the emergency.

(ii) Direct verbal communication by means of an approved 2-way telecommunications system operating within the medcom requirements.

(iii) Protocols adopted by the medical control authority (MCA) and approved by the department.

(iv) Other means submitted by the MCA and approved by the department that are not in conflict with the medcom requirements.

(l) “Disciplinary action” means an action taken by the department against a medical control authority, a life support agency, healthcare facility, or individual, or an action taken by a medical control authority against a life support agency or licensed individual for failure to comply with the code, rules, or protocols approved by the department. Action may include suspension, limitation, or removal of medical control from a life support agency of a medical control authority providing medical control, from an individual providing emergency medical services care, or any other action authorized by the code.

R 325.126 Definitions; E to O.

Rule 2. (a) “Emergency medical services intercept” means a situation where a life support agency is transporting an emergency patient from the scene of an emergency and requests patient care intervention from another life support agency for a higher level of care.

(b) “Emergency medical services telecommunications” means the reception and transmission of voice and/or data information in the emergency medical services system consistent with the medcom requirements prescribed by the department.

(c) “Fixed wing aircraft” means a non-rotary aircraft transport vehicle that is primarily used or available to provide patient transportation between health care facilities and is capable of providing patient care according to orders issued by a patient’s physician.

“Ground ambulance” means a vehicle that complies with design and structural specifications, as defined in R 325.22101 to R 325.22217, and is licensed as an ambulance to provide transportation and basic life support, limited advanced life support, or advanced life support.

(e) “Healthcare facility” means a healthcare facility licensed under MCL 333.20801 and 333.21501 that operates a service for treating emergency patients, 24 hours a day, 7 days a week.

(f) “Hold itself out” means the agency, healthcare facility, or trauma facility advertises, announces, or charges specifically for providing emergency medical services as defined in the code.

(g) “Inter-facility trauma transfer” means identifying the group of trauma patients that require additional trauma resources with the goal of providing optimal care to these patients by the timely transfer of that patient to an appropriate level of care to optimize outcome.

(h) “License” means written authorization issued by the department to a life support agency and its life support vehicles to provide emergency medical services as defined in the code.

(i) “License expiration date” means the date of expiration indicated on the license issued by the department.

(j) “Licensure action” means denial, probation, suspension, limitation, or revocation by the department of a license for a life support agency, a life support vehicle, or a trauma facility for violations of the code.

(k) “Life support vehicle” means an ambulance, a non-transport pre-hospital life support vehicle, or a medical first response vehicle, as defined in the code.

(l) “Medcom requirements” means medical communication requirements for an emergency medical services communication system.

(m) “Medical control” means the supervision and coordination of emergency medical services through a medical control authority, as prescribed, adopted, and enforced through department-approved protocols, within an emergency medical services system.

(n) “Medical control authority” (MCA) means an organization designated by the department to provide medical control, as defined in the code.

(o) “Medical control authority board” means a board appointed by the participating organizations to carry out the responsibilities and functions of the medical control authority.

(p) “Medical control authority region” means the geographic area comprised of a county, group of counties, or parts of an individual county, as designated by the department.

(q) “Non-designated” healthcare facility means a healthcare facility that either has chosen not to be a part of Michigan’s trauma care system, or a healthcare facility that the department has not designated as a level I regional trauma research facility, level II regional trauma facility, level III community trauma facility, or level IV trauma support facility.

R 325.127 Definitions; P to T.

Rule 3. As used in this part:

(a) “Pediatric trauma facility” means a facility that has obtained an additional level of verification as a trauma facility, as provided by the American college of surgeons, as well as those requirements to be designated as a trauma facility in Michigan, as set forth in R 325.127 to R 325.138.

(b) “Pediatric trauma patient” means an injured individual that is, or reasonably appears to be, 14 years of age or under.

(c) “Physician” means a doctor of medicine (MD) or a doctor of osteopathy (DO) who possesses a valid current license to practice medicine in the state of Michigan.

(d) “Protocol” means a patient care standard, standing orders, policy, or procedure for providing emergency medical services that is established by a medical control authority and approved by the department under MCL 333.20919.

(e) “Professional standards review organization” means a committee established by a life support agency or a medical control authority for the purpose of improving the quality of medical care, as provided in MCL 331.531 to 331.533.

(f) “Quality improvement program” means actions taken by a life support agency, medical control authority, trauma facility, or jointly between a life support agency, medical control authority, or trauma facility with a goal of continuous improvement of medical care in accordance with the code. Actions shall take place under a professional standards review organization, as provided in MCL 331.531 to 331.533.

(g) “Regional Professional Standards Review Organization” means a committee established by the regional trauma network for the purpose of improving the quality of trauma care within a recognized trauma region as provided in MCL 331.531 to 331.533.

(h) “Regional trauma advisory council (RTAC)” means a committee established by a regional trauma network and comprised of MCA personnel, EMS personnel, life support agency representatives, healthcare facility representatives, physicians, nurses, and consumers. The functions of the RTAC are to provide leadership and direction in matters related to trauma systems development in their region, and monitor the performance of the trauma agencies and healthcare facilities within the region, including, but not limited to, the review of trauma deaths and preventable complications.

(i) “Regional trauma network” means an organized group comprised of the local MCA’s within a region, which integrates into existing regional emergency preparedness, and is responsible for appointing a regional trauma advisory council and creating a regional trauma plan.

(j) “Regional trauma plan” means a written plan prepared by a regional trauma advisory council, and approved by the regional trauma network, that is based on minimum criteria established by the department, and addresses each of the following trauma system components: leadership; public information & prevention; human resources; communications; medical direction; triage; transport; trauma care facilities; inter-facility transfers; rehabilitation; and evaluation of patient care within the system.

(k) “Rotary aircraft” means a helicopter that is licensed under the code as an ambulance.

(l) “Service area” means a geographic area in which a life support agency is licensed to provide emergency medical services for responding to an emergency.

(m) “Statewide Trauma Care Advisory Subcommittee (STAC)” as used in these rules means the statewide trauma care advisory subcommittee as defined in MCL 333.20917a, 333.20908, and 333.20910, that acts as the department’s subject matter experts with regard to the clinical and operational components of trauma care.

(n) “Statewide trauma care system” means a comprehensive and integrated arrangement of emergency services personnel, facilities, equipment, services, communications, medical control authorities, and organizations necessary to provide trauma care to all patients within a particular geographic region.

(o) “Statewide trauma registry” means a system for collecting data from trauma facilities and life support agencies for which the department manages and analyzes the data and disseminates results.

(p) “Trauma” means bodily injury caused by the application of external forces.

(q) “Trauma bypass” means to forego delivery of a patient to the nearest healthcare facility for a healthcare facility whose resources are more appropriate to the patient’s injury pursuant to direction given to a pre-hospital emergency medical service by online medical direction or predetermined triage criteria as established by department-approved protocols. However, trauma care still must be provided to patients as necessary pursuant to 42 USC §1395dd or other applicable laws.

(r) “Trauma care system” means a comprehensive and integrated arrangement of emergency services personnel, facilities, equipment, services, communications, medical control authorities, and organizations necessary to provide trauma care to all patients within a particular geographic region.

(s) “Trauma facility” means a healthcare facility designated by the department as having met the criteria set forth in the code as being either a level I regional trauma research facility, level II regional trauma facility, level III community trauma facility, or level IV trauma support facility.

(t) “Trauma response” means a patient who presents as having been bodily injured as a result of the application of external forces and requires the utilization of emergency department resources.

(u) “Trauma team” means a team of multidisciplinary health care providers established and defined by a healthcare facility or emergency care facility that provides trauma care.

(v) “Triage” means classifying patients according to the severity of their medical conditions.

R 325.128 Terms.

Rule 4. Terms defined in the code have the same meanings when used in these rules.

R 325.129 Powers and duties of the department.

Rule 5. Subject to appropriations, the department, with the advice of the emergency medical services coordinating committee and statewide trauma care advisory subcommittee, contingent upon sufficient funding being appropriated, shall do all of the following:

(a) Implement an “all-inclusive” trauma system throughout the state. This type of system allows for the care of all injured patients in an integrated system of health care in the pre-hospital and healthcare facility environments by personnel that are well trained and equipped to care for injured patients of any severity. The system allows for a healthcare facility to participate in the system to the extent or level that it is willing to commit the resources necessary for the appropriate management of the trauma patients and prohibits the department from limiting the number of health care facilities that seek to qualify for any given level of trauma designation under this system. It also ensures that all trauma patients are served by a system of coordinated care, based on the degree of injury and care required.

(b) Establish a statewide trauma quality improvement process using a statewide database, which is compatible with trauma, emergency departments, and pre-hospital data systems, monitor the statewide trauma system; ensure the coordination and performance of the regional trauma networks; and set minimum standards for system performance and trauma patient care.

(c) Assign a dedicated state EMS/trauma medical director and supporting resources consistent with the criteria in the 2004 Michigan trauma systems plan, pursuant to MCL 333.20910.

(d) Implement and maintain a statewide plan for a trauma system for Michigan, that addresses all of the following:

(i) State leadership.

(ii) Public information and prevention.

(iii) Human resources.

(iv) Communications.

(v) Medical direction.

(vi) Triage.

(vii) Transport.

(viii) Trauma care facilities.

(ix) Inter-healthcare facility transfers.

(x) Rehabilitation.

(xi) Evaluation of trauma patient care and the trauma system.

(e) Ensure integration of the trauma and Emergency Medical Systems (EMS), including all pre-hospital and organ procurement organization components.

(f) Develop a statewide process to establish regional trauma networks comprised of local Medical Control Authorities (MCAs) in a manner that integrates into existing regional emergency preparedness, EMS or medical control systems.

(g) Develop a statewide process for the verification of trauma resources.

(h) Develop a statewide process for the designation of trauma facilities.

(i) Develop an appeals process for facilities contesting their designation.

(j) Establish state trauma recommendations and approve regional trauma triage protocols, which are established and adopted by the local medical control authority.

(k) Establish regional trauma networks, consistent with the current emergency preparedness regions, in order to provide system oversight of the trauma care provided in each region of the state. Regional trauma networks shall be comprised of collaborating local medical control authorities (MCAs) in a region. The collaborating MCAs in a region shall apply to the department for approval and recognition

as a regional trauma network. The department, with the advice and recommendation of the statewide trauma care advisory subcommittee and emergency medical services coordinating committee shall review the appropriateness of the regional structure every 3 years. The establishment of the regional trauma networks shall not limit the transfer or transport of trauma patients between regional trauma networks.

(l) Implement Tiered Triage Protocols. Major trauma patients requiring the resources of a Level I Regional Trauma Research Facility or Level II Regional Trauma Facility shall be identified by adult and pediatric field triage criteria established by the regional trauma networks. Protocols, which are established and adopted by local medical control, may be developed based on the standards incorporated by reference in these rules, Resources for Optimal Care Of The Injured Patient 2006; Committee On Trauma American College of Surgeons, available at a cost of \$25.00 from the American College of Surgeons, 633 N. Saint Clair St. Chicago, Illinois 60611-3211, and those contained in R 325.135. A copy is also available at cost from the EMS & Trauma Systems Section, 201 Townsend Street, Lansing, MI 48913. Tables 1 & 2 apply to adult and pediatric triage criteria:

Table I
Adult Trauma Triage Criteria & Methodology

The EMT or paramedic shall assess the condition of those injured persons with anatomical and physiological characteristics of a person 15 years of age or older for the presence of at least 1 of the following criteria to determine whether to transport as a trauma alert. These criteria are to be applied in the order listed, and once any 1 criterion is met that identifies the patient as a trauma alert, no further assessment is required to determine the transport destination.

Criteria:

1. GCS \leq 13
2. Meets color-coded triage system (see below)
3. Meets local criteria (specify) _____
4. Patient does not meet any of the trauma criteria listed above but, in the judgment of the EMT or paramedic, should be transported as a trauma alert (document) _____

Component	▼Blue▼	▼Red▼
Airway	Respiratory rate of 30 or greater	Active airway assistance ¹ or RR<10 or flail chest
Circulation	HR of 120 beats per minute or greater	Lack of radial pulse with systolic BP, 90 mmHg
Best Motor Response ²	BMR = 5	BMR=4 or less or presence of new paralysis, or suspicion of spinal cord injury or loss of sensation
Cutaneous	Soft tissue loss ³ or penetrating injury to extremities distal to knee or elbow	Amputation proximal to the wrist or ankle or any penetrating injury ⁴ to head, neck, or torso or extremity at or proximal to elbow or knee.
Fracture	Single FX site due to trauma excluding ground-level fall	Fracture or two or more long bones ⁵ or pelvic fracture
Age	55 years or older	

Mechanism of Injury	Prolonged extrication (>20 min.) evidence of high speed crash or significant vehicle damage or bent steering wheel or rollover, or motorcycle crash	Ejection from vehicle, death in same passenger compartment, pedestrian struck, falls >20 feet
Burns	<10% 2 nd or 3 rd degree	>10% 2 nd or 3 rd degree or burns to face, hands, feet, genitalia/perineum and major joints, electrical burn or lighting injury, chemical burns, inhalation injury, or burn injury in patient with pre-existing chronic medical condition

B = any 2 transport as a trauma alert

R = any 1 transport as a trauma alert

1. Airway assistance beyond administration of oxygen
2. Best Motor Response:
 - 6: Obeys movement commands
 - 5: Purposeful movement to pain
 - 4: Withdraws to pain
 - 3: Flexes to pain (decorticate posturing)
 - 2: Extension response to pain (decelerate posturing)
 - 1: No response
3. Major degloving injuries, or major flap avulsion (>5 in.)
4. Excluding superficial wounds in which the depth of the wound the can be determined
5. Longbone defined as humerus or femur

Table II
Pediatric Trauma Triage Criteria & Methodology

The EMT or paramedic shall assess the condition of those injured persons with anatomical and physiological characteristics of a person 14 years of age or younger for the presence of at least 1 of the following criteria to determine whether to transport as a trauma alert. These criteria are to be applied in the order listed, and once any 1 criterion is met that identifies the patient as a trauma alert, no further assessment is required to determine the transport destination.

Criteria:

1. Meets color-coded triage system (see below)
2. Meets local criteria (specify) _____
3. Patient does not meet any of the trauma criteria listed above but, in the judgment of the EMT or paramedic, should be transported as a trauma alert (document) _____

Component	▼Blue▼	▼Red▼
Size	Weight ≤ 11 Kg or length ≤ 33 inches on a pediatric length and weight emergency tape	
Airway		Active airway assistance ¹ or crush injury to the chest
Consciousness	Amnesia or loss of consciousness	Altered mental status ² or coma or presence or paralysis or suspicion of spinal cord injury or loss of sensation

Circulation	Carotid or femoral pulses palpable, but the radial or pedal pulse not palpable or SBP < 90 mm of Hg ²	Lack of radial pulse with systolic BP < 90 mmHg ²
Fracture (FX)	Single closed long bone ⁴ fracture ⁵	Open long bone ⁴ fracture ⁶ or multiple fracture sites or multiple dislocations ⁶
Cutaneous		Major soft tissue disruption ⁷ or major flap avulsion or 2 nd or 3 rd degree burns to ≥ 10% TBSA or amputation ⁸ or any penetrating injury to head, neck or torso ⁹

B = any 2 transport as a trauma alert

R = any 1 transport as a trauma alert

1. Airway assistance beyond administration of oxygen
2. OR < 70 + 2 x age in years
3. Altered mental states include drowsiness, lethargy, inability to follow commands, unresponsiveness to voice, totally unresponsive
4. Long bones include the humerus, (radius, ulna) femur, (tibia or fibula)
5. Long bone fractures do not include isolated wrist or ankle fractures
6. Long bone fractures do not include isolated wrist or ankle fractures or dislocations
7. Includes major degloving injury
8. Amputation proximal to ankle or wrist
9. Excluding superficial wounds where the depth of the wound can be determined

(m) Verify the trauma care resources of all healthcare facilities in Michigan over a 3-year period.

(n) Establish a mechanism for periodic re-designation of all healthcare facilities.

(o) Develop a comprehensive statewide data collection system that shall be phased in over a 5-year period.

(p) Formulate recommendations for the development of performance improvement plans by the regional trauma networks, consistent with those in R 325.135.

(q) Develop a process for trauma system performance improvement, which will include responsibility for monitoring compliance with standards, maintaining confidentiality and periodic review of trauma facility standards. The following standards are incorporated by reference in these rules, as specified in R 325.129(2)(l) and R 325.135.

(r) Develop a process for the evaluation of trauma system effectiveness based on standards that are incorporated by reference in these rules, as specified in R 325.129(2)(l), and R 325.135.

(s) Coordinate and integrate appropriate injury prevention initiatives and programs.

(t) Support and fund the components of the state trauma system and the regional trauma networks, and provide adequate staffing and resources to carry out its responsibilities and functions.

(u) Conduct an accurate assessment of the training and education needs and resources of trauma care personnel throughout the state.

(2) In developing a statewide trauma system, the department shall consider the following factors:

- (a) Efficient implementation and operation.
- (b) Decrease in morbidity and mortality.
- (c) Cost effective implementation.
- (d) Incorporation of national standards.
- (e) Availability of funds to implement.

(3) The 2004 Michigan Trauma Systems Plan may be periodically updated by the statewide trauma advisory subcommittee and the emergency medical services coordinating committee.

R 325.130. Trauma facility verification; designation and re-designation.

Rule 6. (1) A healthcare facility, which intends to provide trauma care, shall obtain designation as a trauma facility, and a healthcare facility shall not self designate itself as a trauma facility.

(2) A healthcare facility shall not use the word “trauma” to describe its facility, or in its advertising, unless it obtains and maintains a designation as a “trauma facility” from the department.

(3) A healthcare facility that wishes to identify itself as a trauma facility shall meet the criteria for the level of designation being sought.

(4) The department shall re-designate the trauma capabilities of each healthcare facility on the basis of verification and designation requirements in effect at the time of re-designation.

(5) To obtain a designation as a “trauma facility”, the institution shall apply to the department. An applicant healthcare facility has a right to an administrative hearing if denied a specific trauma facility level designation.

(6) The department shall designate the existing trauma resources of all participating healthcare facilities in the state, based upon the following categories:

(a) A level I regional trauma research center shall comply with the standards that are incorporated by reference pursuant to R 325.129(2)(l), and all of the following:

(i) Comply with data submission requirements in R 325.133 and R 325.134.

(ii) Develop and submit a performance improvement plan based on standards that are incorporated by reference in these rules, pursuant to R 325.129(2)(l) and R 325.135.

(iii) Participate in coordinating and implementing regional injury prevention plans.

(iv) Provide staff assistance to the department in the designation and verification process of community trauma facilities and trauma support facilities contingent upon sufficient funding being appropriated.

(b) A level II regional trauma center shall comply with the standards that are incorporated by reference and verification criteria established by the ACSCOT for level II trauma facilities, pursuant to R 325.129(2)(l), and all of the following:

(i) Comply with data submission requirements in R 325.133 and R 325.134.

(ii) Develop and submit a performance improvement plan based on standards that are incorporated by reference in these rules, pursuant to R 325.129(2)(l) and R 325.135.

(iii) Participate in coordinating and implementing regional injury prevention plans.

(iv) Provide staff assistance to the department in the designation and verification process of community trauma facilities and trauma support facilities, contingent upon sufficient funding being appropriated.

(c) For a level III, community trauma facility, verification criteria shall be established by the department, with the advice and recommendations of the state trauma advisory subcommittee and emergency medical services coordinating committee. The standards are incorporated by reference in these rules, based upon verification criteria established by ACSCOT for level III facilities, pursuant to R 325.129(2)(l), and all of the following:

(i) Comply with data submission requirements in R 325.133 and R 325.134.

(ii) Develop and submit a performance improvement plan based on standards that are incorporated by reference in these rules, pursuant to R 325.129(2)(l) and R 325.135.

(iii) Participate in coordinating and implementing regional injury prevention plans.

(d) For a Level IV, trauma support facility, verification shall be completed using an “in-state” process, and criteria shall be established by the department, with the advice and recommendations of the state trauma advisory subcommittee and emergency medical services coordinating committee. The standards are incorporated by reference in these rules, based upon relevant verification criteria established by ACSCOT for level IV facilities, pursuant to R 325.129(2)(l) and shall include all of the following essential components:

(i) Institutional organization, which shall include all of the following:

(A) Trauma program.

(B) Trauma team.

- (C)Trauma coordinator/TPM.
- (ii) Clinical capabilities – specialty immediately available 24 hours/day, as documented in a published on-call schedule.
 - (iii)Clinical qualifications, which shall include both of the following:
 - (A)General/trauma surgeon, who has ATLS completion.
 - (B)Emergency medicine, with ATLS completion.
 - (iv)Facilities/resources/capabilities, presence of surgeon at operative procedures.
 - (v) Emergency department equipped with all of the following resuscitation equipment:
 - (A)Airway control and ventilation equipment.
 - (B)Pulse oximetry.
 - (C)Suction devices.
 - (D)Electrocardiograph-oscilloscope-defibrillator.
 - (E)Standard IV fluids and administration sets.
 - (F)Large-bore intravenous catheters.
 - (G)Sterile surgical sets for all of the following:
 - (1) Airway control/cricothyrotomy.
 - (2)Thoracostomy.
 - (3) Venous cutdown.
 - (G) Drugs necessary for emergency care.
 - (H) Broselow tape.
 - (I) Thermal control equipment for patient.
 - (J) Qualitative end-tidal Co2 determination.
 - (K) Communication with EMS vehicles.
 - (vi) Operating room with personnel available 24 hours /day, which shall include both of the following:
 - (A)Thermal control equipment for both of the following:
 - (1) Patient.
 - (2) Fluids and blood.
 - (B) X-ray capability.
 - (vii) Postanesthetic recovery room, which shall include both of the following:
 - (A) Equipment for monitoring and resuscitation.
 - (B)Intracranial pressure monitoring equipment, which shall include both of the following:
 - (1) Pulse oximetry.
 - (2)Thermal control.
 - (viii) Respiratory therapy services.
 - (ix) Radiological services available 24 hours/day.
 - (x) Clinical laboratory service available 24 hours/day, which shall include all of the following:
 - (A) Standard analyses of blood, urine, and other body fluids, including microsampling when appropriate.
 - (B) Blood typing and cross-matching.
 - (C) Coagulation studies.
 - (D) Comprehensive blood bank or access to a community central blood bank and adequate storage facilities.
 - (E) Blood gases and pH determinations.
 - (F) Microbiology including the following:
 - (1) Acute Hemodialysis or transfer agreement.
 - (2) Burn care, organized in-house or transfer agreement with burn center.

(3) Acute spinal cord management in-house or transfer agreement with regional acute spinal cord injury rehabilitation center.

(4) Rehabilitation services in-house or transfer agreement to an approved rehabilitation facility.

(5) Performance improvement, which shall include all of the following:

(a) Performance improvement programs.

(b) Participation in state, local, or regional registry.

(c) Audit of all trauma deaths.

(d) Morbidity and mortality review.

(e) Medical nursing audit including the following:

(i) Continuing education/outreach.

(ii) Prevention.

(e) The facility shall comply with data submission requirements as set forth in R 325.133 and R 325.134.

(f) The facility shall develop and submit a performance improvement plan based on standards that are incorporated by reference in these rules, pursuant to R 325.129(2)(l) and R 325.135.

(g) The facility shall participate in coordinating and implementing regional injury prevention plans.

(h) The department may, with the advice and recommendations of the state trauma advisory committee and emergency medical services coordinating committee, modify the criteria or establish additional levels of trauma care resources as appropriate to maintain an effective state trauma system and protect the public welfare, except that the department shall not establish any criteria for the purpose of limiting the number of health care facilities that qualify for a particular trauma level under these rules.

(7) The resources of healthcare facilities applying for level I regional trauma research facility or level II regional trauma facility designation status shall be verified by the ACSCOT and shall do all of the following:

(a) Comply with data submission requirements in R 325.133 and R 325.134.

(b) Develop and submit a performance improvement plan based on standards that are incorporated by reference in these rules, pursuant to R 325.129(2)(l) and R 325.135.

(c) Participate in coordinating and implementing regional injury prevention plans.

(d) Provide staff assistance to the department in the designation and verification process of community trauma facilities and trauma support facilities contingent upon sufficient funding being appropriated.

(8) Healthcare facilities seeking designation as a level III, community trauma facility shall be verified using either an “in-state” process established by the department, with the advice of the state trauma advisory subcommittee, or by the ASCOT and shall do all of the following:

(a) Comply with data submission requirements in R 325.133 and R 325.134.

(b) Develop and submit a performance improvement plan based on standards that are incorporated by reference in these rules, pursuant to R 325.129(2)(l) and R 325.135.

(c) Participate in coordinating and implementing regional injury prevention plans.

(9) Healthcare facilities seeking designation as a Level IV, Trauma Support Facility shall be verified using an “in-state” process established by the department, with the advice of the state trauma advisory subcommittee, and shall do all of the following:

(a) Comply with data submission requirements in R 325.133 and R 325.134.

(b) Develop and submit a performance improvement plan based on standards that are incorporated by reference in these rules, pursuant to R 325.129(2)(l) and R 325.135.

(c) Participate in coordinating and implementing regional injury prevention plans.

(10) Healthcare facilities wishing to be re-designated as a Level I Regional Trauma Research Facility must independently obtain ACS verification at that level, and shall comply with the standards that are incorporated by reference pursuant to R 325.129(2)(l), and all of the following:

(a) Comply with data submission requirements in R 325.133 and R 325.134.

(b) Develop and submit a performance improvement plan based on standards that are incorporated by reference in these rules, pursuant to R 325.129(2)(l) and R 325.135.

(c) Participate in coordinating and implementing regional injury prevention plans.

(d) Provide staff assistance to the department in the designation and verification process of community trauma facilities and trauma support facilities contingent upon sufficient funding being appropriated.

(11) Healthcare facilities wishing to be re-designated as a Level II regional trauma facility must independently obtain ACS verification at that level, and shall comply with the standards that are incorporated by reference pursuant to R 325.129(2)(l), and all of the following:

(a) Comply with data submission requirements as set forth in R 325.133 and R 325.134.

(b) Develop and submit a performance improvement plan based on standards that are incorporated by reference in these rules, pursuant to R 325.129(2)(l) and R 325.135.

(c) Participate in coordinating and implementing regional injury prevention plans.

(d) Provide staff assistance to the department in the designation and verification process of community trauma facilities and trauma support facilities contingent upon sufficient funding being appropriated.

(12) Healthcare facilities wishing to be re-designated as a Level III community trauma facility must obtain verification at that level using either “in-state” resources, or the ASCOT, and shall comply with the standards that are incorporated by reference pursuant to R 325.129(2)(l), and all of the following:

(a) Comply with data submission requirements in R 325.133 and R 325.134.

(b) Develop and submit a performance improvement plan based on standards that are incorporated by reference in these rules, pursuant to R 325.129(2)(l) and R 325.135.

(c) Participate in coordinating and implementing regional injury prevention plans.

(13) Healthcare facilities wishing to be re-designated as a Level IV trauma support facility must obtain verification at that level using an “in-state” process. Criteria shall be established by the department, with the advice and recommendations of the state trauma advisory subcommittee and emergency medical services coordinating committee, based upon relevant most current verification criteria established by ACSCOT for level IV facilities, and shall comply with the standards that are incorporated by reference pursuant to R 325.129(2)(l), and those listed in R 325.130, and all of the following:

(a) Comply with data submission requirements in R 325.133 and R 324.134.

(b) Develop and submit a performance improvement plan based on standards that are incorporated by reference in these rules, pursuant to R 325.129(2)(l) and R 325.135.

(c) Participate in coordinating and implementing regional injury prevention plans.

R 325.131 Triage and transport.

Rule 7. (1) The department, with the advice and recommendations of the state trauma advisory subcommittee and emergency medical services coordinating committee, shall develop recommendations, based on standards that are incorporated by reference in these rules, pursuant to R 325.129(2)(l), R 325.136, R 325.137, and R 325.138 for protocols which are established and adopted by local medical control, for the triage, transport, and inter-facility transfer of adult and pediatric trauma patients to appropriate trauma care facilities.

(2) The standards that are incorporated by reference in these rules, pursuant to R 325.129(2)(l), R 325.136, R 325.137, and R 325.138 for the triage, transport, and the inter-facility transfer of trauma patients provide recommended minimum standards of care for protocols which are established and adopted by local medical control that must be utilized in the transfer of care for trauma patients. On an annual basis, or as needed, the department shall review and update these recommended minimum standards with the advice and recommendations of the state trauma advisory subcommittee and emergency medical services coordinating committee.

(3) The department, with the advice and recommendations of the state trauma advisory subcommittee and emergency medical services coordinating committee, shall create regional trauma networks that

shall have the responsibility for developing triage and transport procedures within that geographical area. Both of the following apply:

(a) Each regional trauma network shall be created within the emergency preparedness region currently established within the state.

(b) Each trauma region may create its own triage and transport criteria and protocols, destination criteria and protocols, and inter-facility transfer criteria and protocols, which are established and adopted by local medical control, so long as they meet or exceed the standards that are incorporated by reference in these rules, pursuant to R 325.129(2)(i), R 325.136, R 325.137, and R 325.138, and that they are reviewed by the quality assurance task force and approved by the department. This may include coordination of triage and transport criteria and protocols, which are established and adopted by local medical control, across geographic regions if in the best interest of providing optimal trauma care to patients.

R 325.132 Trauma regions.

Rule 8. (1) The department, with the advice and recommendations of the state trauma advisory subcommittee and emergency medical services coordinating committee, and contingent upon sufficient funding being appropriated, shall support the establishment and operational activities of the trauma regions through the commitment of staff resources consistent with recommendations of the 2004 Michigan trauma systems plan.

(2) Each region shall establish a regional trauma network as prescribed and defined by R 325.125 to R 325.135.

(3) All MCAs within a region must participate in the regional trauma advisory network, and life support agencies that care for trauma patients shall be offered membership on the regional trauma advisory committee. Regional trauma advisory committees shall be operated in a manner that maximizes inclusion of their constituents. All of the following apply:

(a) At least quarterly, a regional trauma network shall submit evidence of ongoing activity, such as meeting notices and minutes, to the department. Annually, the regional trauma advisory committee shall file a report with the department which describes progress toward system development, demonstrates on-going activity, and include evidence that members of the regional trauma advisory committee are currently involved in trauma care.

(b) The regional trauma network shall develop a system plan for comprehensive system development. The system plan is subject to review of the State trauma advisory subcommittee and emergency medical services coordinating committee and approval by the department.

(c) The department shall review the plan to assure that it contains at a minimum, all of the following:

(i) All counties within the regional trauma advisory committee have been included unless a specific county, or portion thereof, has been aligned within an adjacent network, and all health care entities and MCAs, life support agencies have been given an opportunity to participate in the planning process.

(ii) All of the following components have been addressed:

(A) Injury prevention.

(B) Access to the system.

(C) Communications.

(D) Medical oversight.

(E) Pre-hospital triage criteria.

(F) Trauma diversion policies.

(G) Trauma bypass protocols.

(H) Regional trauma treatment guidelines.

(I) Regional quality improvement plans.

(J) Trauma education.

(4) Each regional trauma network shall appoint a regional professional standards review organization as defined in R 325.127(e).

(5) Each regional trauma advisory committee shall develop performance improvement plans that are based on standards that are incorporated by reference in these rules, pursuant to R 325.129(2)(l) and R 325.135, and shall be reviewed annually by the state trauma advisory subcommittee and emergency medical services coordinating committee for recommendations to the department.

(6) Recommendations, which are developed and proposed for implementation by a regional trauma advisory committee shall meet or exceed those that have been established by the department with the advice and recommendations of the state trauma advisory subcommittee and emergency medical services coordinating committee, as based on standards that are incorporated by reference in these rules, pursuant to R 325.129(2)(l).

(7) Once the department approves a completed regional trauma plan, the department shall recognize the regional trauma network. The regional trauma network approval process shall consist of the following phases:

(a) The first phase is the application phase, which begins with the submission to the department of a completed regional plan for the regional trauma network.

(b) The second phase is the review phase, which begins with the receipt of the regional plan, and ends with a department recommendation to approve the regional trauma network.

(c) The third phase is the final phase, with the department making a final decision regarding the regional trauma network plan. This phase also includes an appeal procedure for the denial of an approval of application in accordance with the department's administrative hearings requirements.

(8) If the application phase results in a recommendation to the department for approval by the statewide trauma advisory subcommittee and the emergency medical services coordinating committee, and the department approves, then the department shall notify the regional trauma network applicant of the recommended action within 90 days from receipt by the department.

(9) Upon approval, a regional trauma advisory committee shall implement the plan to include the following:

(a) Education of all entities about the plan components.

(b) On-going review of resources, process, and outcome data.

(c) If necessary, revision and re-approval of the plan or plan components by the department.

R 325.133. Data collection.

Rule 9. (1) The department, with the advice and recommendations of the state trauma advisory subcommittee and emergency medical services coordinating committee, shall develop and maintain a statewide trauma data collection system, and contingent upon sufficient funding being appropriated, shall do all of the following, which will include development of a state trauma data oversight committee, a subcommittee of the state:

(a) Adopt the national trauma data elements and definitions as a minimum set of elements for data collection, the following standards are incorporated by reference in these rules, as identified in the National Trauma Registry Data Dictionary August 2006, Version 2.2, and available free online at <http://www.facs.org/trauma/ntdb/datadictionary.pdf>. A copy may be obtained at no cost by writing the EMS & Trauma Systems Section, 201 Townsend Street, Lansing, MI 48913. Additional required data elements that shall be submitted include both of the following:

(i) Destination medical record number.

(ii) Patient care report number.

(b) Develop procedures to meet the 5-year data implementation plan, as set forth in the following, based on the effective date of these rules:

(i) Year 1 – Establish regions, define data dictionary, and define the data download and data verification process. Establish regional and state committee structure. Download all ACS verified trauma facility data to a regional trauma registry. Generate reports and evaluate uniformity of data. All of the following apply:

(A) Data related to a trauma response shall be submitted to the department on a quarterly basis. Initially, data may be submitted in either paper form, or as an electronic file.

(B) The initial data submission requirements only apply to trauma response patients who have a mechanism of injury that may have resulted from a criminal act. A healthcare facility need not determine whether the acts related to the mechanism of a patients injuries result in any criminal proceedings to include an arrest, prosecution, or conviction.

(C) For those trauma response patients who meet the criteria identified for initial data submission, the following data elements shall be submitted to the department:

(1) Patient identification number.

(2) A mechanism of injury code – ICD9, e-code, or another comparable alternative.

(3) Date of treatment.

(4) Facility federal identification number.

(ii) Year 2 – Work towards uploading regional data to state registry. Identify all healthcare facilities for data submission. Establish a data collection process for community trauma facilities, and trauma support facilities. Initial evaluation of regional data by regional committees and upload the data to the state trauma registry.

(iii) Year 3 – Develop annual reports using regional and state data defined by the state trauma data oversight committee, a subcommittee of the STAC. Assess the state trauma system and regional trauma network.

(iv) Year 4 –Expand the trauma data collection system to include all participating healthcare facilities.

(v) Year 5 - Evaluate and import additional data from existing databases on a needs basis.

(2) The department will support the data collection and analysis process through the commitment of staff resources consistent with the advice and recommendations of the state trauma advisory subcommittee and the emergency medical services coordinating committee.

(3) Both of the following shall apply to healthcare facility participation in data collection:

(a) All healthcare facilities with an emergency center shall participate in data submission.

(b) The confidentiality and protection of patient data collected as part of the creation and operation of the trauma system shall be provided and maintained through the creation of regional professional standards review organization, as provided in 1967 PA 270, MCL 331.531 to 331.533.

R 325.134 Trauma registry.

Rule 10. (1) The purpose of the trauma registry is to collect and analyze trauma system data to evaluate the delivery of adult and pediatric trauma care, develop injury prevention strategies for all ages, and provide resources for research and education.

(2) The department is responsible, contingent upon sufficient funding being appropriated, for the coordination of data collected by the trauma care facilities, emergency medical service providers, and first responder services. The department shall develop and publish a data submission manual that specifies all of the following:

(a) Data elements and definitions. The standards that are incorporated by reference pursuant to R 325.133(1)(a), and all of the following.

(i) Definitions of what constitutes a reportable trauma case.

(ii) Method of submitting data to the department.

(iii) Timetables for data submission.

- (iv) Electronic record format.
- (v) Protections for individual record confidentiality.
- (b) Notification of trauma care facilities, ambulance service providers and first responder services of the required registry data sets and update the facilities and providers, as necessary, when the registry data set changes.
- (c) Specification of both the process and timelines for healthcare facility and ambulance service provider submission of data to the department.
- (3) Submission of data. All healthcare facilities and life support agencies shall submit to the department trauma data determined by the department to be required for the department's operation of the state trauma registry. The department shall prescribe and provide both of the following:
 - (a) Standard reporting mechanisms to be used by all healthcare facilities and life support agencies.
 - (b) The form and content of records to be kept and the information to be reported to the department.
- (4) The department and regional trauma advisory committees shall use the trauma registry data to identify and evaluate regional trauma care and to prepare standard quarterly and annual reports and other reports and analyses as requested by regional trauma advisory committees, the state trauma advisory subcommittee, or the emergency medical services coordinating committee.

R 325.135 Performance improvement.

- Rule 11. (1) Each regional trauma advisory committee shall use the trauma registry data collected to improve trauma care through the appointment of regional professional standards review organizations, reduce death and disability, and correct local and regional injury problems.
- (2) Each regional trauma network shall appoint a professional standards review organization.
 - (3) Deviations from recommendations and protocols, which are established and adopted by local medical control and approved by the department for trauma patients, shall be addressed through a documented trauma performance improvement process established by a professional standards review organization.
 - (4) Data confidentiality. Each regional trauma advisory committee shall observe the confidentiality provisions of the health insurance portability and accountability act under 45 CFR Part 164, data confidentiality provisions under the code, or as established by the regional professional standards review organization.
 - (5) Process. The performance improvement process shall include the following standards that are incorporated by reference in these rules, pursuant to R 325.129(2)(l), and include all of the following for both pediatrics and adults:
 - (a) Data collection and analysis.
 - (b) Adult and pediatric-specific quality indicators for evaluating the trauma system and its components.
 - (c) A system for case referral.
 - (d) A process for indicator review and audit.
 - (e) A mechanism for an action plan and process improvement.
 - (f) A mechanism for feedback to the medical control authorities, the emergency medical services coordinating committee, and the state trauma advisory subcommittee.
 - (g) An evaluation of system performance to include all of the following:
 - (i) Designation: Compliance with criteria.
 - (ii) Triage and transport (Access).
 - (iii) Outcomes: (stratified by ISS/TRISS).
 - (iv) Both of the following transfers:
 - (a) LOS.

(b) Deaths.

(v) Both of the following patient care issues:

(a) Mortality: all deaths.

(b) Morbidity: Defined by regions.

(vi) Review of hospital performance improvement.

(vii) The following audit filters and data elements:

(A) Trauma related deaths list hospital, elapsed time, ED admission time, MOI, age, cause code, transport mode, GCS, RTS, AIS, ICD-9, CPT's and ISS for each patient.

(B) Trauma patients with more than one inter-hospital transfer prior to definitive care list hospitals sending and accepting the transfer for each patient meeting criterion.

(C) Ground transport trauma patients with an ED RTS less than or equal to 5.5 and scene transport times (scene departure to ED arrival) greater than 20 minutes list (and sort by) hospital, transport mode, EMS agency, scene to hospital transport time, injury county, cause code, ISS, and outcome for each patient meeting these criteria.

(D) Trauma patients with EMS scene times (EMS scene arrival to EMS scene departure) greater than 20 minutes list EMS agency, transport mode, scene time, scene procedures (air, CPR, fluids), trauma type, injury zip code (injury county), ISS, and outcome for patients meeting criterion.

(E) Transferred trauma patients with an ISS greater than 15 and transfer time (ED admit to definitive hospital admit) greater than 6 hours for rural place of injury or 4 hours for urban place of injury list ED hospital, definitive hospital, urban or rural place of injury, transfer time, cause code, ISS, and outcome for patients meeting criteria.

(F) Trauma patients with an ISS greater than 15 and ED time (ED admit to ED discharge) greater than 2 hours list hospital, patient transfer? (yes or no), cause code, and ED time for patients meeting criteria.

(G) Trauma patients who die with a probability of survival (TRISS) > 50%. (TRISS score for trauma patients using physiologic measures collected at the first presenting hospital) list hospital, age, cause code, transport mode, ISS, outcome, LOS, and TRISS for patients meeting criteria.

(H) Trauma patients with an ISS greater than 15 who are discharged from non-trauma centers list hospital, age, cause code, transport mode, ISS, outcome, discharge disposition, and time to discharge for each patient meeting criteria.

(I) Trauma patients transported by EMS without an associated ambulance report in the medical record list percentage of missing run reports by transport mode and EMS agency.

(J) Trauma patients 14 years of age or younger (children) who either had an ED GCS less than or equal to 8, intubation, or ISS greater than 15 and not transferred to a regional pediatric trauma center list hospital, age, ED GCS, ISS, cause code, LOS, and transport mode for each patient meeting criteria.

(5) Trauma System Evaluation. Each trauma care region shall be responsible for the ongoing evaluation of its trauma care system. Accordingly, each region shall develop a procedure for receiving information from EMS providers, trauma centers and the local medical community on the implementation of various components of that region's trauma system, shall include the standards that are incorporated by reference pursuant to R 325.129(2)(1), as well as include all of the following;

(a) The following system components to be evaluated:

(i) Components of the regional trauma plan.

(ii) Triage criteria, and effectiveness.

(iii) Activation of trauma team.

(iv) Notification of specialists.

(v) Trauma center diversion.

(b) Results to be reported annually. Based upon information received by the region in the evaluation process, the region shall annually prepare a report containing results of the evaluation and a performance improvement plan. Such report shall be made available to all EMS providers, trauma centers and the

local medical community. The region shall ensure that all trauma centers participate in this annual evaluation process, and encourage all other hospitals that treat trauma patients to do likewise. Specific information related to an individual patient or practitioner shall not be released. Aggregate system performance information and evaluation will be available for review.

(6) Performance improvement process for trauma centers. All trauma centers shall develop and have in place a performance improvement process focusing on structure, process, and outcome evaluations which focus on improvement efforts to identify root causes of problems, intervene to reduce or eliminate these causes, and take steps to correct the process as set forth in the trauma center level specific requirements. This system shall provide for input and feedback from these patients and guardians to hospital staff regarding the care provided.

In addition, the process shall include the standards that are incorporated by reference pursuant to R 325.129(2)(I), and all of the following:

- (a) A detailed audit of all trauma-related deaths, major complications and transfers.
- (b) A multidisciplinary trauma peer review committee that includes all members of the trauma team.
- (c) Participation in the trauma system data management system.
- (d) The ability to follow up on corrective actions to ensure performance improvement activities.

(7) Performance improvement process for trauma care regions. Each trauma care region shall be required to develop and implement a region wide trauma performance improvement program. This program shall include the standards that are incorporated by reference pursuant to R 325.129(2)(I), and shall include the development of an annual processes for reporting to the department a review of all region-wide policies, procedures, and protocols.

R 325.136 Destination protocols.

Rule 12. Local MCA's shall develop and submit trauma destination protocols to the EMS and trauma section for review by the quality assurance task force, pursuant to MCL 333.20916. Upon review and approval by the department the MCA must formally adopt and implement the protocol. The following factors will be used in evaluating those destination protocols.

(a) All trauma patients, as defined by the adult and pediatric trauma and triage criteria and methodology documents, should be transported to the closest appropriate state designated trauma center. There is not 1 single set of criteria that can define the appropriate trauma center for each area of the state. Each region will need to determine a system that is appropriate for its specific situation. The following factors may be used to assist in this process:

(i) If a level 1 or 2 state designated trauma center is within 30 minutes transport time of the scene, the adult patient should be transported to the closest of these facilities.

(ii) Pediatric trauma patients should be transported to a regionally designated facility for appropriate evaluation and stabilization and then transported to the appropriate children's trauma center if needed. Parents should be transported to the same facility as their children if resources are available.

(b) Bypassing a level 3 or 4 trauma center or a nonparticipating hospital is appropriate as long as the level 1 or 2 facility is within a reasonable distance from the scene, as defined by protocol.

(c) Trauma patients shall not be transported to a facility not participating in the state trauma system unless there is no other reasonable alternative available. For example, the next closest facility is more than a reasonable distance from the scene.

(d) Some areas of the state have prolonged transport times to any facility. Trauma patients in these areas shall be transported to the closest facility that can facilitate rapid transport to the definitive care facility.

(e) In areas of the state where level 1 and 2 trauma centers are not within a reasonable distance from the scene, the trauma patient shall be transported to the closest appropriate highest level trauma center.

(f) Each region shall carefully evaluate this situation since it could be detrimental to the patient to transport him/her to a level 4 center 30 minutes to the east, when the closest level 2 center is 40 minutes to the west. That patient would then have to be transported 70 minutes back to the west after stabilization.

(g) Protocols shall take into account the fact that some centers may have different resources available even though they are the same level.

(h) Each region shall make appropriate determinations for destination based on what is best for the patient rather than based on politics or economic factors.

(i) In areas of the state close to state borders, the most appropriate facility may be out of the state. Whenever possible, trauma patients shall be transported within state borders, but local protocols shall address this issue.

R 325.137 Trauma patient inter-facility transfer protocols.

Rule 13. (1) All designated trauma centers shall maintain inter-facility transfer protocols for trauma patients.

All level 3, level 4 and non-designated hospitals will develop and implement a formal policy that describes the process for transfer of trauma patients who meet criteria to be cared for at a level 1 or level 2 trauma center.

All level 3, level 4 and non-designated hospitals will have formal transfer agreements established with level 1 or level 2 hospitals for the transfer and receipt of trauma patients.

(4) Trauma patients will be transported to Michigan hospitals that participate in and are designated as a Michigan trauma facility.

(5) Michigan hospitals that frequently transfer patients to out of state hospitals will do so only if a designated Michigan trauma center is unavailable.

(6) A trauma patient, who meets the criteria set forth in the adult and pediatric trauma triage methodology documents, will undergo rapid evaluation and treatment in preparation for transfer.

(7) Level 3 and level 4 hospitals shall have protocols for activation of the transfer process, in anticipation of need for a level 1 or level 2 center, by pre-hospital personnel prior to arrival at the level 3 or level 4 hospital based on the adult and pediatric trauma triage methodology.

(8) The method by which the patient is transferred (ground or air) shall be determined by the sending or receiving physician based on patient need. Patients needing staff or equipment beyond the scope of local ground providers will be transferred via air-medical personnel at the discretion of the sending or receiving physician, or as defined by section 20921 (5).

(9) Patients or their families may request transfer to a specific hospital if it is designated as a level 1 or level 2 trauma center, and the transfer can be accomplished without harm to the patient.

R325.138 Criteria for transfer protocols; criteria.

Rule 14. Designated trauma centers shall use all of the following criteria for trauma patient transfer protocols:

(1) Central nervous system:

(a) Depressed skull fracture.

(b) Penetrating injury /open fracture, with or without cerebrospinal fluid leak.

(c) GCS <14 or deterioration.

(d) Spinal cord injury or cerebral vascular injury.

(2) Chest:

(a) Major chest wall injury or pulmonary contusion.

- (b) Wide mediastinum or other signs suggesting great vessel injury.
- (c) Cardiac injury.
- (d) Patients who may require prolonged ventilation.
- (e) Flail chest/multiple rib fractures.
- (3) Pelvis/Abdomen:
 - (a) Unstable pelvic ring disruption.
 - (b) Pelvic fracture with shock or other evidences of continuing hemorrhage.
 - (c) Open pelvic injury.
 - (d) Intra-abdominal visceral injury.
 - (e) Acetabular injury.
- (4) Major Extremity Injuries:
 - (a) Fracture/dislocation with loss of distal pulses.
 - (b) Open long-bone fractures.
 - (c) Extremity ischemia.
 - (d) Compartment syndrome.
- (5) Multiple-system injury:
 - (a) Head injury combined with face, chest, abdominal, or pelvic injury.
 - (b) Burns with any combination of multi-system, injury including inhalation injury.
 - (c) Multiple long-bone fractures.
 - (d) Injury to more than two body regions.
- (6) Comorbid Factors:
 - (a) Age >55 years.
 - (b) Children <5 years.
 - (c) Cardiac or respiratory disease.
 - (d) Insulin-dependent diabetes.
 - (e) Morbid obesity.
 - (f) Pregnancy.
 - (g) Immunosuppression.
 - (h) Liver or renal insufficiency.
- (7) Secondary deterioration (late sequelae):
 - (a) Prolonged mechanical ventilation >48 hours.
 - (b) Sepsis.
 - (c) Single or multiple organ system failure (deterioration in central nervous, cardiac, pulmonary, hepatic, renal, or coagulation systems).
 - (d) Major tissue necrosis /soft tissue injury.

NOTICE OF PUBLIC HEARING

**SOAHR 2005-059
NOTICE OF PUBLIC HEARING
Statewide Trauma System**

The Department of Community Health will hold a public hearing on Tuesday, September 11, 2007, at 9:00 a.m. at the Department of Community Health, 201 Townsend, 1st Floor, Conference Centers B & C, Lansing, Michigan.

The public hearing is being held to receive comments from interested persons on a new rule set concerning the implementation of the Statewide Trauma System. Public Act 440 required that the Department of Community Health establish a Statewide Trauma Care Commission to assess statewide trauma care delivery and the operational and administrative structure of statewide trauma care delivery. The proposed rules will establish a comprehensive statewide trauma care system that is an integrated arrangement of the emergency services personnel, facilities, equipment, services, communications, medical control authorities, and organizations necessary to provide trauma care to all patients within a particular geographic region.

These rules are being promulgated under the authority conferred on the department of community health by section 9227 and 20910 of 1978 PA 368, 2004 PA 580, 2004 PA 581, 2004 PA 582, and Executive Reorganization Order No. 1996-1, being MCL 333.9227, 333.20910, 333.1101 to 333.25211, 333.20910, 333.20908 and 330.3101. These rules are proposed to take effect immediately upon filing with the Secretary of State.

Hearing comments may be presented in person, with written comments available at the time of presentation. Written comments also will be accepted at the following address or E-mail address until 4:30 p.m. on Monday, September 10, 2007. Address communications to:

Department of Community Health
Office of Legal Affairs - 201 Townsend - Lansing, MI 48909
Attention: Mary Greco
E-mail address: grecom@michigan.gov Phone: (517) 373-3772

A copy of the proposed rules may be obtained by contacting the address noted above. Electronic copies also may be obtained at <http://www.michigan.gov/cis>.

The hearing site is accessible, including handicapped parking. Individuals attending the meeting are requested to refrain from heavily scented personal care products, in order to enhance accessibility for everyone. People with disabilities requiring additional accommodations such as information in alternative formats in order to participate in the hearing, should contact Mary Greco, at least 14 working days before the hearing.

PROPOSED ADMINISTRATIVE RULES

SOAHR 2006-067

DEPARTMENT OF LABOR AND ECONOMIC GROWTH

DIRECTORS OFFICE

ACCOUNTING

GENERAL RULES

Filed with the Secretary of State on

These rules become effective March 1, 2008.

(By authority conferred on the department of labor and economic growth by sections 308 and 721 of 1980 PA 299, MCL 339.308 and 339.721, and Executive Reorganization Order No.1996-2 **and 2003-1**, MCL 445.2001 **and MCL 445.2011**.

Draft August 2, 2007

R 338.5101, R 338.5103, R 338.5114, R 338.5140, R 338.5145, R 338.5210, and R 338.5405 of the Michigan Administrative Code are amended; R 338. 5102, R 338.5104, R 338.5501 and R 338.5503 are added as follows:

PART 1. GENERAL PROVISIONS

R 338.5101 Definitions.

Rule 101. (1) As used in these rules:

(a) "Act" means ~~Act No. 1980 PA 299, of the Public Acts of 1980, as amended, being §MCL 339.101 to MCL 339.2919 et seq. of the Michigan Compiled Laws,~~ and known as the occupational code.

(b) "Audit" or "examination" means an examination applying generally accepted auditing standards, including any procedure undertaken to verify or test the reasonableness of financial information ~~presented in financial statements~~ with a view of expressing an opinion or commenting on the fairness of the presentation.

(c) **"Attest services" means an audit, review, or agreed upon procedures engagement performed in accordance with applicable professional standards pursuant to R 338.5101(k), R 338.5101(l), R 338.5102, and R 338.5103.**

~~(e)~~ (d) "Board" means the Michigan state board of accountancy.

~~(d)~~ (e) "Client" means the person or persons or entity that retains a licensee for the performance of professional services.

~~(e)~~ (f) "Continuing education period" means all or part of a year beginning July 1 and ending June 30.

~~(f)~~ (g) "CPA" or "certified public accountant" means a person holding a certificate of certified public accountant granted by the department.

~~(g)~~ **(h)** "Disclose" means to provide a written communication from a CPA or a CPA firm informing the client, prior to making a recommendation or referral, that the CPA or CPA firm will receive a commission, referral fee, or contingency fee from a third party for recommendations or referrals of products and/or services. ~~May 27, 1999~~

~~(h)~~ **(i)** "Enterprise" means a person, persons, or entity for which a licensee performs professional services.

~~(i)~~ **(j)** "Financial statements" means statements and related footnotes that show financial position, results of operations, and cash flows on the basis of generally accepted accounting principles or another comprehensive basis of accounting. The term does not include incidental financial data included in management advisory services reports to support recommendations to a client and does not include tax returns and supporting schedules of tax returns.

~~(j)~~ **(k)** "Generally accepted accounting principles" means accounting principles **of professional conduct related to individual accounting engagements.** ~~or standards generally accepted in the United States, including accounting principles board opinions, accounting research bulletins, and statements on standards for accounting and review services published by the American institute of certified public accountants and statements of financial accounting standards published by the financial accounting standards board and its predecessors. Copies of accounting principles, board opinions, accounting research bulletins, and statements of financial accounting standards may be obtained from the Board of Accountancy, Department of Consumer and Industry Services, P.O. Box 30018 Lansing, MI 48909-7518, at a cost of \$85.00 as of the time of adoption of these rules, and from Harcourt Brace, 6277 Sea Harbor Drive, Orlando, FL 32887, at a cost of \$69.00 as of the time of adoption of these rules.~~

~~(k)~~ **(l)** "Generally accepted auditing standards" means ~~auditing standards published by the American institute of certified public accountants~~ **the standards of professional conduct related to individual audit engagements.** ~~Copies of the standards may be obtained from the Board of Accountancy, Department of Consumer and Industry Services, P.O. Box 30018 Lansing, MI 48909, at a cost of \$85.00 as of the time of adoption of these rules, and from Harcourt Brace, 6277 Sea Harbor Drive, Orlando, FL 32887 at a cost of \$69.00 as of the time of adoption of these rules.~~

~~(l)~~ **(m)** "Professional engagement" means an agreement between a client and a licensee relative to the performance of professional services.

~~(m)~~ **(n)** "Professional services" means ~~any~~ services performed or offered to be performed by a licensee for a client in the course of ~~the~~ practice of public accounting, **pursuant to MCL 339.720.**

~~(n)~~ **(o)** "Qualifying hours" means continuing education hours that comply with part 2 of these rules.

~~(o)~~ **(p)** "State" means the 50 states of the United States of America, Washington, D.C., Puerto Rico, Guam, ~~and the Virgin Islands and the Commonwealth of the Northern Mariana Islands.~~

(2) Terms defined in the act have the same meanings when used in these rules.

R 338.5102 Standards of professional practice adopted by reference.

Rule 102. (1) The following standards specified in this rule are adopted in these rules by reference and are available at a cost as of the adoption of these rules:

(a) "AICPA Professional Standards as of June 1, 2006." The publication is available from the American Institute of Certified Public Accountants (AICPA) at 1-888-777-7077, 220 Leigh Farm Road, Durham, NC 27702-8110. Cost: \$119.00 for members; \$148.75 for non-members.

(b) The accounting principles defined by the AICPA in AU Section 411. AU Section 411 is available for download at no charge at www.pcaobus.org.

(c) The auditing standards issued by the Public Company Accounting Oversight Board (PCAOB) in the publication entitled "PCAOB Standards and Related Rules, as of December

2006.” The publication is available for download at no charge at www.pcaob.org. A copy of the publication may be purchased from the AICPA pursuant to subdivision (a) of this subrule. Cost: \$85.50 for members; \$106 for nonmembers.

(d) The auditing standards published by the Government Accounting Office in the publication entitled “Government Auditing Standards,” effective January 2007. The publication is available for download at no charge at <http://www.gao.gov/govaud/vbk01.htm>.

(e) The auditing standards published by the International Auditing and Assurance Standards Board (IAASB). The standards are available for download at no charge at www.iaasb.org.

(f) For peer reviews, the “Standards for Performing and Reporting on Peer Reviews,” promulgated by the AICPA, effective January 1, 2005. The standards are available from the AICPA pursuant to subdivision (a) of this subrule. Cost: \$299 for members; \$373.75 for nonmembers.

(2) The accounting, auditing and peer review standards adopted by reference in subdivisions (a), (d), and (f) of this subrule are available for inspection at the Department of Labor and Economic Growth, Bureau of Commercial Services, 2501 Woodlake Circle, Okemos, Michigan 48864-5955, 517-241-9228.

(3) Copies of the standards adopted in subdivisions (a) to (f) of this subrule may be obtained from the department at the cost specified in subdivision (a) to (f) of this subrule, plus \$20.00 for shipping and handling.

(4) A downloaded copy of the standards adopted in subdivisions (b) to (e) of this subrule may be obtained from the department for a cost of 51.6 cents per image image.

R 338.5103 Performance of compilation and review services.

Rule 103. Pursuant to the definition of the practice of public accounting in section ~~702~~ 720 of the act, in the performance of compilation and review services, a licensee shall adhere to the standards set forth in the publication of the American institute of certified public accountants entitled “Statements on Standards for Accounting and Review Services.” ~~Nos. 1 through 7.~~ The standards are adopted by reference in these rules. Copies of the adopted standards may be purchased from the Board of Accountancy, Department of Consumer and Industry Services, P.O. Box 30018, Lansing, MI 48909 7518, at a cost of \$30.00 as of the time of adoption of these rules, or from the American Institute of Certified Public Accountants, Harborside Financial Center, 201 Plaza Three, Jersey City, NJ 07311, at a cost of \$19.00 as of the time of adoption of these rules. The following standards are adopted by reference:

(a) The “Statements on Standards for Accounting and Review Services” are provided in the publication “AICPA Professional Standards as of June 1, 2006,” and adopted by reference pursuant to R 338.5102(1)(a).

(b) The “Statements on Standards for Accounting and Review Services” are available for purchase and inspection pursuant to R 338. 5102(1)(a), R 338.5102(3) and R 338.5102(4).

R 338.5104 Retention of documents

Rule 104. (1) With the exception of documents related to a peer review, all registered firms and licensed individuals shall retain sufficient documentation, in any form, with regard to services performed while engaged in the practice of public accounting, as well as evidence obtained and conclusions reached, for a period of not less than 5 years.

(2) Documents related to a peer review shall be retained in accordance with the AICPA's retention policies pursuant to R 338.5102(1)(f) or until final adjudication of a complaint related to a peer review, whichever is later.

(3) Documentation shall be consistent with that required by professional standards or promulgated by the applicable nationally recognized professional standards setting organizations.

PART 2. ~~EXAMINATIONS~~ LICENSURE REQUIREMENTS

R 338.5114 Credit hour requirements for concentration in accounting.

Rule 114. (1) The department shall consider a person as having met the concentration in accounting requirements of section 725(1)(e) of 1980 PA 299, MCL 339.725, if the person provides proof of having completed 150 semester hours of academic credit at an accredited college or university, including either of the following:

(a) A ~~graduate~~ master's degree in accounting or a ~~master of~~ business administration ~~degree that~~ that includes not fewer than 12 semester hours of graduate level accounting courses. **The 12 semester hours of accounting courses shall not include tax or information systems courses.**

(b) An academic program consisting of both of the following:

(i) Thirty semester hours of accounting subjects, including not more than 6 semester hours of taxation. Additional semester hours in accounting subjects may be applied toward the general business subject requirements of subdivision (b) (ii) **and (iii)** of this subrule.

(ii) Thirty-nine **additional** semester hours, including a minimum of 3 semester hours ~~each~~ in business communications. **A business communications course shall include all of the following: improving business writing skills, improving presentation skills, and effective listening skills. and computer technology**

(iii) and a A minimum of 3 semester hours, but not more than 12 semester hours, in not fewer than 5 of the following areas:

- (A) Business law.
- (B) Economics.
- (C) Ethics.
- (D) Finance.
- (E) Management.
- (F) Marketing.
- (G) Taxation.
- (H) Statistics.
- (I) Business policy.

(2) Credit may be earned only once for an accounting or general business topic. If the department determines that 2 courses are duplicative, then only the semester hours of 1 course shall be counted toward the semester hour requirement.

R 338.5140 Permit for temporary practice.

Rule 140. (1) An accountant shall obtain a permit and pay the appropriate fee for each engagement in this state by an accountant, or on behalf of his or her firm, who does not hold a license to practice public accountancy in this state. The applicant shall hold a license as a certified public accountant of another state, or hold a title from a foreign country, recognized by the board as comparable to the Michigan certificate of certified public accountant and shall be practicing public accountancy under the certificate or license in the grantor state or country.

(2) If approved by the department, the term of the permit shall begin on the date approved unless otherwise specified and shall be for a specified period, but shall not be for more than 1 year.

(3) The temporary practice shall be performed by, or under the direct supervision of, a licensed certified public accountant or the holder of a title from a foreign country who is recognized under subrule (1) of this rule.

(4) A temporary permit is not required if the work relates to a Michigan-based division or subsidiary of an ~~firm entity~~, if the parent ~~firm entity~~ is located in another state or foreign country and is a client of the certified public accountant, ~~firm~~, or foreign accountant, and if a separate ~~rendering presentation~~ of financial statements **with a related independent auditor's report or review report**, ~~or accounting reports or attesting an attestation regarding~~ to the reliability of a representation or estimate is not made for the division or subsidiary **on a stand-alone basis**.

(5) A temporary permit is not required if the work is to be performed through the applicant's employer who presently holds the license to practice public accountancy in this state.

(6) A temporary permit issued to an accountant shall also constitute a temporary permit for his or her firm, if his or her firm is not presently licensed in this state.

~~(5)~~ (7) If another state or foreign country charges a fee for providing an affidavit or certificate of professional standing for determining whether the applicant is qualified to practice public accountancy temporarily in this state, then the applicant shall pay the fee.

R 338.5145 Adoption of accreditation standards by reference; board recognition of educational institutions; requirements for concentration in accounting.

Rule 145. (1) For the purpose of identifying the educational institutions that meet the educational standards required by the board to satisfy section 725 of the act, both **all** of the following provisions apply:

(a) The board adopts the criteria for accreditation of the north central association of colleges and schools, commission on institutions of higher education, included in the publication entitled "Handbook of Accreditation, ~~Second~~ **Third** Edition." Accreditation by the north central association of colleges and schools or an affiliated association is prima facie proof of having met the criteria. Copies of the criteria are available for ~~inspection and purchase at the Board of Accountancy, Consumer and Industry Services, P.O. Box 30018, Lansing, MI 48909-7518, at a cost of \$25.00 as of the time of adoption of these rules, or may be purchased~~ from the North Central Association of Colleges and Schools, Commission on Institutions of Higher Education **The Higher Learning Commission**, 30 N. La Salle Street, Suite 2400, Chicago IL 60602-2504, at a cost of ~~\$18.00~~ **\$33.50** as of the time of adoption of these rules.

(b) The criteria may be downloaded for no charge at www.ncahlc.org/. A downloaded copy may be purchased from the department pursuant to R 338.5102(4).

(c) The criteria are available for inspection and purchase from the Department of Labor and Economic Growth, Bureau of Commercial Services, 2501 Woodlake Circle, Okemos, Michigan 48864 at a cost of \$33.50 as of the time of adoption of these rules.

~~(b)~~ **(d)** The department may recognize an educational institution which demonstrates that the curricula required for its degrees are the equivalent of the curricula required for degrees granted by institutions accredited under subdivision (a) of this ~~sub-rule~~ **subrule**.

(2) A concentration in accounting shall include the following accounting and general business subjects, for which credit is transferable to any baccalaureate degree-granting institution recognized by the department:

Semester hours

Auditing

3- semester hours

Accounting principles 21- semester hours

General business subjects 24- semester hours

The accounting principles shall include study in each of the following areas:

- (a) Financial accounting and accounting theory.
- (b) Managerial accounting, including cost accounting.
- (c) Accounting systems and controls
- (d) United States federal taxation.
- (e) Governmental/fund accounting.

PART 3. CONTINUING EDUCATION

R 338.5210 Continuing education requirements; reporting; qualifying hours.

Rule 210. (1) A licensee shall earn qualifying hours annually within the continuing education period and shall report the hours, **and may be required to report the courses**, biennially on a form prescribed by the department.

(2) A licensee shall earn not fewer than 8 of the minimum qualifying hours annually in auditing and accounting, and not fewer than 2 of the minimum qualifying hours annually in ethics. **The study of ethics may include, but is not limited to, the study of the code of conduct, ethical reasoning, ethics enforcement, non-attest services, and independence.**

(3) The form and content of continuing education courses shall be acceptable to the department.

PART 4. PROFESSIONAL CONDUCT

R 338.5405 Independence rule; adoption by reference.

Rule 405. (1) A licensee, including a firm, may express an opinion on financial statements of an enterprise only if the licensee is independent from the enterprise. For the purpose of defining the impairment of independence, the board adopts the ~~American institute of certified public accountants AICPA rule on independence contained in the publication entitled "Code of Professional Conduct." dated January 2006. Copies of the code are available for inspection at the board of accountancy 2501 Woodlake Circle, Okemos, Michigan and may be purchased from the American Institute of Certified Public Accountants, Harborside Financial Center, 201 Plaza Three, Jersey City NJ 07311, at a cost of \$5.50 as of the time of adoption of these rules. Copies are also~~

(a) The code is available for download at no charge on the AICPA web site: <http://www.aicpa.org/about/code/sec100.htm>, and may be downloaded without charge.

(b) The code is available for purchase and inspection in the publication "AICPA Professional Standards as of June 1, 2006," pursuant to R 338.5102(1)(a), R 338.5102(3) and R 338.5102(4).

Rule 338.5501 Peer review

Rule 501. (1) Each firm or sole practitioner required to participate in a peer review program, pursuant to MCL 339.729(2), shall enroll in the program of a qualified sponsoring organization within 1 year of the earlier of the following:

(a) Its initial licensing date.

(b) The performance of services that require a peer review.

(2) Proof of a peer review shall not be required to be submitted to the department until the second renewal following initial licensure or the performance of services requiring a peer review.

(3) Qualified sponsoring organizations shall include the center for public company audit firms (CPCAF) peer review program, the american institute of certified public accountants (AICPA) peer

review program, national conference of CPA practitioners (NCCPAP) peer review program, and such other entities that adhere to the peer review standards defined in R 338.5102(1)(f).

(4) A licensee subject to peer review shall not be required to become a member of any sponsoring organization.

(5) A firm or sole practitioner who has not performed services as described in MCL 339.729 during the preceding 3 years shall submit a request for exemption with its license renewal application. The request may be submitted on a form provided by the department or in a manner otherwise acceptable to the department. The board and the department may extend the due date for the requirement for peer review upon a showing by the licensee that to comply with the requirement would present an undue hardship.

Rule 338.5503 Peer review standards; change in sponsoring organization; adverse peer review reports; documentation.

Rule 503. (1) If a firm is merged, otherwise combined, dissolved, or separated, the sponsoring organization shall determine which firm is considered the succeeding firm. The succeeding firm shall retain its peer review status and the review due date.

(2) A firm choosing to change to another sponsoring organization may do so provided that the firm authorizes the previous sponsoring organization to communicate to the succeeding sponsoring organization any outstanding corrective actions related to the firm's most recent review.

(3) The department may rely on an adverse peer review report or a second consecutive modified peer review report as prima facie evidence of a violation of professional standards.

(4) Each peer review and reviewer must comply with the applicable review standards in place at the time of the review. The following apply:

(a) Documents related to a peer review shall be retained in accordance with the AICPA's retention policies pursuant to R 338.5102(1)(f), or until final adjudication of a complaint related to a peer review, whichever is later.

(b) The documents described in subdivision (a) of this subrule shall be available for inspection by the department during regular business hours with reasonable notice.

NOTICE OF PUBLIC HEARING

**SOAHR 2006-067
DEPARTMENT OF LABOR AND ECONOMIC GROWTH
BUREAU OF COMMERCIAL SERVICES**

**BOARD OF ACCOUNTANCY
NOTICE OF PUBLIC HEARING**

September 5, 2007

10:00 a.m.

2501 Woodlake Circle Okemos Michigan
Conference Room A

The Department of Labor and Economic Growth will hold a public hearing on September 5, 2007; 10:00 a.m. at the Bureau of Commercial Services, 2501 Woodlake Circle, Okemos Michigan in Conference Room A. The hearing will be held to receive public comments on proposed changes to the Administrative Rules for the Board of Accountancy.

The proposed rule set #2006-067 adopts the most recent professional standards for accounting principles and auditing standards, amends certain requirements for qualifying education and continuing education and stipulates implementation requirements for peer review.

These rules are promulgated by authority conferred on the Department of Labor and Economic Growth by 1980 PA 299, MCL 339.205 and MCL 339.308. The rules will take effect on March 1, 2008.

The rule set #2006-067 is published on the Michigan Government web site at <http://www.michigan.gov/orr> and in the September 1, 2007 issue of the *Michigan Register*. Comments may be submitted to the following address by 5:00 P.M. on September 5, 2007. Copies of the draft rules may also be obtained by mail or electronic transmission at the following address:

Department of Labor and Economic Growth
Amy Shell, Bureau of Commercial Services
P. O. Box 30018
Lansing MI 48909-7518
Phone: (517) 241-9219
FAX: (517) 373-3085
E-mail: shella1@michigan.gov

The hearing site is accessible, including handicap parking. People with disabilities requiring additional accommodations in order to participate in the hearing (such as information in alternative formats) should contact the Bureau at (517)241-9265 14 days prior to the hearing date. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. Information at this meeting will be presented by speakers and printed handouts.

PROPOSED ADMINISTRATIVE RULES

SOAHR 2006-073

DEPARTMENT OF ENVIRONMENTAL QUALITY

LAND AND WATER MANAGEMENT DIVISION

GREAT LAKES BOTTOMLANDS PRESERVES

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, 45a(6), or 48 of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the department of environmental quality by section 76111 of 1994 PA 451, MCL 324.76111.)

Draft May 10, 2007

R299.6012 is added to the Michigan Administrative Code as follows:

R 299.6012 Grand Traverse Bay Great Lakes state bottomland preserve; establishment.

Rule 12. (1) The following described area is established as the Grand Traverse Bay Great Lakes state bottomland preserve:

An area of Lake Michigan bottomlands including the water surface described as: beginning at the point where the northernmost portion of Cathead Point, Leelanau County intersects the Ordinary High Water Mark (OHWM) of Lake Michigan (approximately 45°11'15"N, -85°37'04"W), thence northeasterly to a point in Lake Michigan lying at 45°13'54"N, -85°33'14"W (north of Lighthouse Point, Leelanau County) thence proceeding easterly along latitude line 45°13'54"N until it intersects the OHWM in Charlevoix County (approximately 45°13'54"N, -85°23'19"W, north of Norwood), thence along the OHWM of Grand Traverse Bay generally southerly, westerly, and northerly, to the point of beginning, including all of the West and East arm of Grand Traverse Bay, excluding all islands above the ordinary high waterline of Lake Michigan and previously conveyed areas, containing 295 square miles, more or less.

NOTICE OF PUBLIC HEARING

SOAHR 2006-073
NOTICE OF PUBLIC HEARING
DEPARTMENT OF ENVIRONMENTAL QUALITY
LAND AND WATER MANAGEMENT DIVISION

The Michigan Department of Environmental Quality (DEQ), Land and Water Management Division, will conduct a public hearing on proposed administrative rules promulgated pursuant to Part 761, Aboriginal Records and Antiquities of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451); R 299.6012. This rule would establish the Grand Traverse Bay Great Lakes State Bottomland Preserve.

The public hearing will be held on September 11, 2007, at 7 p.m. in Room 214 of the Great Lakes Maritime Academy building, Great Lakes Campus, Northwestern Michigan College, 715 E. Front Street, Traverse City, Michigan 49686.

Copies of the proposed rules (SOAHR 2006-073 EQ) can be downloaded from the Internet at www.michigan.gov/deqgreatlakes, select "Shipwrecks." These rules can also be downloaded from the Internet through the State Office of Administrative Hearings and Rules at <http://www.michigan.gov/orr>. Copies of the rules may also be obtained by contacting the Lansing office at:

Land and Water Management Division
Michigan Department of Environmental Quality
P.O. Box 30458
Lansing, Michigan 48909-7958
517 335-3471
Fax: 517 373-6917
E-Mail: graft@michigan.gov

All interested persons are invited to attend and present their views. It is requested that all statements be submitted in writing for the hearing record. Anyone unable to attend may submit comments in writing to the address above. Written comments must be received by 5:00 p.m. on Friday, September 21, 2007.

Persons needing accommodations for effective participation in the meeting should contact the Land and Water Management Division at (517) 335-3471 one week in advance to request mobility, visual, hearing, or other assistance.

This notice of public hearing is given in accordance with Sections 41 and 42 of Michigan's Administrative Procedures Act, 1969 PA 306, as amended, being Sections 24.241 and 24.242 of the Michigan Compiled Laws. Administration of the rules is by authority conferred on the Director of the DEQ by Section 76111 of 1994 PA 451, MCL 324.76111 and Executive Order 1995-18. These rules will become effective immediately after filing with the Secretary of State.

PROPOSED ADMINISTRATIVE RULES

SOAHR 2006-078

DEPARTMENT OF AGRICULTURE

PESTICIDE AND PLANT PEST MANAGEMENT DIVISION

REGULATION NO. 637. PESTICIDE USE

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of agriculture by section 8325 of **1994, PA 451, MCL Act No. 451** of the Public Acts of 1994, as amended, being §324.8325) of the Michigan Compiled Laws

Draft May 15, 2007

R 285.637.1, R 285.637.2, R 285.637.3, R 285.637.4, R 285.637.5, R 285.637.6, R 285.637.7, R 285.637.8, R 285.637.9, R 285.637.10, R 285.637.11, R 285.637.12, R 285.637.13, R 285.637.14, R 285.637.15 and R 285.637.17 of the Michigan Administrative Code are amended.

R 285.637.1 Definitions; A to O.

Rule 1. As used in these rules:

(a) "Act" means **1994 PA 451, MCL Act No. 451** of the Public Acts of 1994, as amended, being §324.8301 et seq. of the Michigan Compiled Laws.

(b) "Broadcast" means any application of pesticides over an area, such as a lawn, field, room, crawl space, or other such surface. The term does not include crack and crevice or spot applications made to selected plants, insects, soil, or **other** surfaces.

(c) "Building manager" means the person who is ~~designated as being~~ responsible for the building's pest management program and to whom any reporting and notification shall be made pursuant to these rules.

(d) "Commercial building" means any building or portion thereof which is not a private residence where a business is located and which is frequented by the public.

(e) "Community pesticide application" means an application of pesticides ~~which is made~~ to multiple properties ~~and~~ for which the commercial applicator does not have ~~an oral or written~~ a service agreement with each individual property owner or resident, such as local mosquito control and gypsy moth spray programs. Apartments, town houses or condominiums are considered a single property under this definition.

(f) "Crack and crevice" means the application of ~~small amounts of~~ insecticide into openings commonly found at expansion joints, between different elements of construction, and between equipment and floors.

~~(g) "Day-care center" means a facility, other than a private residence, which receives 1 or more preschool or school-age children for care for periods of less than 24 hours a day, at which the parents or guardians are not immediately available to the child, and which is licensed as a child care organization by the Michigan department of social services in accordance with Act No. 116 of the Public Acts of 1973, as amended, being §722.111 et seq. of the Michigan Compiled Laws.~~

(g) "Dry break" means a 1 or 2-piece 'in-line' aperture or area used for accepting or drawing liquid, which is separate from the active circulating system, and not subject to positive or negative pressure during the application process. This aperture may include a spring operated plunger device to prevent leakage in the event of shutoff valve failure.

(h) "Emergency situation" means an occurrence which is not reasonably foreseeable and which requires attention and action before the time required for notice pursuant to ~~R 285.637.15(9)MCL~~ **324.8316(3)** in order to protect or enhance the health or safety of those reasonably believed to be involved with, or exposed to, the occurrence.

(i) "FIFRA" means the federal insecticide, fungicide, and rodenticide act of 1947, as amended, 7 U.S.C. §136 et seq.

(j) "Health care facility" means a facility which is not a private home and at which people may stay 1 or more nights and receive medical care, such as a hospital or nursing home.

~~(k) "Integrated pest management" means a pest management system that uses all suitable techniques in a total management system to prevent pests from reaching unacceptable levels or to reduce existing pest populations to acceptable levels.~~

(k) "Mixing and loading facility" means a site for commercial applicators that has the following meanings:

(i) For commercial aerial applicators, the term means the primary location in Michigan at which pesticides are **repackaged, loaded, mixed, or** transferred from 1 container to another, ~~repackaged, or mixed in dry or liquid form.~~

(ii) For all other commercial applicators, the term means a location or site where pesticides are transferred from 1 container to another, repackaged, or mixed in dry or liquid form for over 10 days in any calendar year, but does not mean a pesticide-producing establishment as defined by ~~the federal insecticide, fungicide, and rodenticide act of 1947, as amended, being 7 U.S.C. §136 et seq.~~ **FIFRA**, unless the establishment also transfers, repackages, or mixes dry or liquid pesticides. Transfer between containers includes transfers to pesticide application equipment and nurse tanks. Any mixing or loading site that is owned or operated within a 1/2-mile radius of another site that is owned or operated by the same person will be considered as the same facility or site.

(l) "Multiple-use areas" means developed outdoor public recreation areas, such as, **but not limited to**, campgrounds, rest areas, parks, playgrounds, picnic areas, and athletic fields. The term does not include undeveloped forested areas.

(m) "Nonpowered equipment" means pesticide application equipment that pumps ~~and/or~~ disperses pesticides without utilizing ~~an electric, gasoline, wind-driven, or other~~ a motorized power source. Examples include manual pumps, aerosols, or other **non-motorized** self-contained **or operated** spray equipment.

(n) "Off-target direct discharge" means the direct application of pesticides ~~onto~~ **to** a property that is beyond the boundaries of the intended treatment area.

(o) "Off-target drift" means the physical movement of a pesticide at the time of application from the **targeted** site of application to any nontarget site. **Off-target drift shall not include the off-target movement of a pesticide by means of erosion, volatilization, or windblown soil particles after the application of a pesticide.**

(p) "Organic farm" means a location or site that **is registered under MCL 286.911(4).**~~meets both of the following criteria:~~

~~—(i) An agricultural product is grown for commercial sale.~~

~~—(ii) The farm is a certified organic farm that is under a federal, state, or private certification program approved by the director. The term also includes farms that are in the 3-year transitional period before certification.~~

R 285.637.2 Definitions; P to W.

Rule 2. As used in these rules:

(a) "Pesticide-containing material" means any of the following:

(i) Any container of a pesticide product that has not been triple rinsed or the equivalent ~~of triple rinsed thereof.~~

(ii) Any rinsate that is derived from a pesticide container, pesticide application equipment, or equipment washing.

(iii) Any material that is used to collect or contain excess or spilled pesticide or rinsate.

(iv) Any mixture of pesticide and diluent ~~such as wash water, rinse water, or rainwater.~~

(v) Material that is generated as a result of contact with or utilization of a pesticide in an application, containment, recovery, reuse, or treatment system. The term does not include personal protective equipment that contains pesticide residue.

(b) "Pesticide-producing establishment" means any site where a pesticide is manufactured, packaged, repackaged, prepared, processed, or held for distribution or sale.

(c) "Properties adjacent to" ~~has the following meanings:~~

~~(i) In urban and suburban residential areas, the term means properties which share a common boundary line or corner with the property to be treated or which are directly across a residential~~ **undivided** ~~road, stream, or other right-of-way from the property to be treated.~~

~~(ii) In agricultural areas, the term means properties or planted crops which share a common boundary line or corner with the area to be treated or which are directly across a secondary road, stream, or right-of-way from the area to be treated.~~

(d) "Public building" means a building that is owned or operated by a federal, state, or local government, including public universities.

(e) "Registry" means a list of persons who must be notified before a pesticide is applied, as described in R 285.637.5.

(f) "Rinsate" means any material that may result from the rinsing of interior surfaces of pesticide containers, pesticide application equipment, or containment areas that has or may have pesticide residues.

(g) "School" means public and private schools, grades kindergarten through the twelfth grade.

(h) "Sensitive area" means any of the following:

(i) Occupied school buildings, together with any land that is part of the same property and is within 100 feet of such buildings, and including any playgrounds, athletic fields, or other such facilities ~~which are in the vicinity of school buildings and~~ which are in use at the time of the pesticide application.

(ii) Developed recreation areas that are **in use and** open to **the public accommodation**, including any of the following:

(A) Developed public or commercial campgrounds.

(B) Developed picnic areas.

(C) Marked roadside rest areas.

(D) Marked publicly owned or maintained hiking trails.

(E) Developed park and recreation facilities.

- (F) Playgrounds.
- ~~(G) Playing fields.~~
- ~~(H)~~**(G)** Other areas that are developed for organized sports or recreation.
- ~~(iii) Apiary locations that are registered with the department.~~
- (iv) Water bodies, including plotted streams, brooks, rivers, ponds, and lakes, if any such water body contains water at the time of the pesticide application.
- (v) Organic farms as defined in R 285.637.1~~(e)~~**(q)**.
- (vi) Health care facilities.
- (vii) Commercial preschool and day-care ~~facilities~~**centers** that are located in buildings which are **in use and** identified by signs or other means and which are recognizable to the public.
- (viii) Posted school bus stops which are identified by signs and which are recognizable to the public.
- (i) "Space" means the application of a pesticide that is intended to discharge a pesticide ~~into the air~~ throughout an entire **volumetric** area.
- (j) "Spill kit" means a portable kit or other equipment that is designed to recover, minimize, contain, or absorb spills, leaks, releases, or other discharges of pesticides.
- (k) "Spot treatment" means ~~an~~ **pesticide** application to a limited area ~~where pests are likely to occur~~, such as floors, walls, bases or undersides of equipment, turf, or ground. A "spot" shall not be more than 2 square feet and shall not be more than 20% of a surface area.
- ~~(l) "Use of a pesticide" means the loading, mixing, applying, storing, transporting, and disposing of a pesticide.~~
- ~~(m)~~**(l)** "Use of a pesticide in a manner inconsistent with its label" means to use any pesticide in a manner that is not consistent with the labeling, except that the term does not apply to any of the following:
 - (i) Applying a pesticide at any dosage, concentration, or frequency that is less than that specified on the labeling, unless the labeling specifically prohibits deviation from the specified dosage, concentration, or frequency.
 - (ii) Applying a pesticide against any target pest that is not specified on the labeling if the application is to the crop, animal, or site that is specified on the labeling.
 - (iii) Employing any method of application that is not prohibited by the labeling unless the labeling specifically states that the product may be applied only by the methods specified on the labeling.
 - (iv) Mixing a pesticide or pesticides with a fertilizer when such mixture is not prohibited by the labeling.
 - (v) Any use of a pesticide that is in compliance with the provisions of section 5, 18, or 24 of FIFRA.
- ~~(n)~~**(m)** "Washing or rinsing facility" means a site for commercial applicators where pesticides and pesticide-containing materials are cleaned, washed, or rinsed from containers or from pesticide application, handling, storage, or transportation equipment for more than 10 days in any calendar year.
- ~~(o)~~**(n)** "Wash water" means water that is used to wash exterior surfaces of application, handling, storage, or transportation equipment where pesticide residues are likely to occur.

R 285.637.3 Terms defined in act.

Rule 3. Terms defined in the act have the same meanings when used in these rules.

R 285.637.4 Standards for pesticide use.

Rule 4. A pesticide application shall be made in compliance with all of the following provisions:

- (a) A pesticide shall be used in a manner that is consistent with its label.
- (b) Pesticide applications shall be made in a manner that prevents off-target direct discharges of pesticides.

(c) Pesticide application equipment shall be in sound mechanical condition and shall be free of leaks and other defects or malfunctions that might cause a pesticide to be deposited off-target or in a manner that is inconsistent with its label.

(d) Pesticide application equipment shall be properly calibrated. ~~Calibration shall occur with sufficient frequency to assure proper application rates.~~

(e) Pesticide application equipment shall have properly functioning shutoff valves or other mechanisms that enable the operator to prevent off-target discharge.

(f) Pesticide application or loading equipment that is designed to draw water shall have a properly functioning ~~antisiphoning~~**anti-siphoning** device.

(g) At sites where pesticides are mixed, loaded, or transferred, an applicator shall maintain and utilize equipment in a manner that prevents the incidental release of pesticides to the environment.

(h) All commercial aerial applicators shall maintain pesticide application equipment in compliance with all of the following performance standards:

(iA) Dry breaks shall be used to connect loading hoses to aircraft.

~~(iiB) Double-clamped hose connections shall be in place for all hoses.~~**All hoses shall either be double clamped or the equivalent.**

~~(C) Hoses that are worn beyond a safe condition shall be immediately replaced.~~

~~(iiiD)~~ Mesh screens on loading hoses shall be at least 20 mesh **or finer** unless otherwise specified by the pesticide manufacturer **or the product label**.

~~(ivE)~~ Shutoff valves shall be in place at the discharge side of the loading pump and on each side of dry breaks.

~~(vF)~~ The loading system shall be flushed with clean water at the completion of each individual load, except when using undiluted material.

~~(viG)~~ Equipment such as gaskets on quick-disconnect coupling, nozzle check valve diaphragms, and o-rings shall be replaced annually.

~~(viiH)~~ An aircraft that has a circulating pump system shall have an operating 3-way spray valve that, when in the off position, creates a negative pressure on the outlet or boom side.

(i) Applications shall not occur when weather conditions favor the off-target drift of pesticides or prevent the proper deposition of pesticides to the target area.

(j) Before applying a pesticide, the applicator shall identify any sensitive areas that are located on properties adjacent to the target area and shall use appropriate precautionary measures to prevent the direct discharge **or drift** of pesticides to those areas.

(k) Pesticides shall be applied in a manner that minimizes the exposure of nontarget humans, livestock, domestic animals, and wildlife to the pesticides. Unless permitted by the label, an applicator shall take all reasonable precautions that will prevent a pesticide from being applied if unprotected persons are present within the application site or are present in adjacent areas when off-target drift may occur.

~~(l) Within 6 months of the effective date of this rule, a~~**A** commercial applicator that is required to be licensed under the act, other than an aerial applicator, shall provide the following information, which shall be printed **or affixed** on the exterior of each vehicle that is used to transport a pesticide:

(i) The name of the **licensed** applicator firm.

(ii) The business telephone number, address, or United States department of transportation census number of the **licensed** applicator firm.

(iii) The printed information must be legible from a distance.

(iv) The required information shall be in a typeface 3 inches high or larger.

~~(iii)(v)~~**(v)** The director may grant an exemption from the requirements of paragraphs (i) and (ii) of this subdivision upon petition by a licensed applicator firm.

(m) Any person who mixes, loads, or otherwise uses pesticides shall have immediate access to a spill kit. Aerial applicator spill kits shall contain not less than 2 buckets, absorptive pillows, or another system for containing leaking nozzles. The spill kit requirement does not apply to a person who uses single containers of use dilution pesticides in a quantity that is less than 16 ounces.

R 285.637.5 Registry of persons requiring notification before **turf and ornamental** application of pesticides.

Rule 5. (1) The department shall maintain a voluntary registry of persons who, due to a **verifiable** medically documented condition, require notification before the application of pesticides on a property that is adjacent to their primary residences. Upon request, the department shall annually register a person who requires notification before the use of pesticides. Each year, the person shall submit a valid certificate from a physician who is licensed to practice medicine. The certificate shall be on forms provided by the department and shall indicate the following information:

- (a) The current diagnosed condition or ailment of the person that specifies the need for notification.
- (b) Any recommended additional distance notification deemed necessary and substantiated by the physician. **The physician's information shall include the recommended additional distance in feet.**
- (2) The certificate that is provided to the department pursuant to the provisions of subrule (1) of this rule shall be subject to review and approval by the department.
- (3) Registration shall also include all of the following information on forms provided by the department:
 - (a) Name, address, other than a post office box number, and telephone number of a person who requires notification.
 - (b) Name, address, other than a post office box number, and telephone number of a designated contact person.
 - (c) A list of addresses of properties that are adjacent to the primary residence of the person requiring notification. **Information shall be provided as follows:**
 - (i) **Street address and occupant name, or designation as vacant lot, direction (N, S, E, W), and estimated street address from notification person's address.**
 - (ii) **Designation of multiple dwelling units such as apartments or condominiums, if applicable.**
 - (iii) **Designation as multiple use area or commercial property, if applicable.**
 - (d) ~~A list of n~~Names and addresses of additional property owners as provided by ~~for in~~ subrule (1)(b) of this rule. **Information shall be provided as follows:**
 - (i) **Street address and occupant name, or designation as vacant lot, direction (N, S, E, W), and estimated street address from notification person's address.**
 - (ii) **Designation of multiple dwelling units such as apartments or condominiums, if applicable.**
 - (iii) **Designation as multiple use area or commercial property, is applicable.**
- (4) The printed registry list shall remain confidential, to the extent permitted by law, except for the following information:
 - (a) Name, address, and telephone number of the designated contact person.
 - (b) Addresses of the adjacent properties or other properties as identified in subrule (1) ~~(b)~~ **(c) and (1)**
 - (d)** of this rule.
 - (c) The address of a person who requires notification.
- (5) ~~It shall be the responsibility of the~~ The individual requiring prior notification, or his or her designated contact person, **shall** to obtain a copy of the annual list and ensure that the specific information provided to the department is accurate and a component of the list.

(6) Initial applications may be submitted to the department at any time. Renewal registration forms supplied by the department shall be submitted annually on or before February 1. An applicant shall immediately notify the department of any address or contact person information change.

(7) The department shall annually publish a list, by March 15, of nonconfidential information provided by persons who request notification. Listings shall be provided to all of the following entities:

(a) Commercial pesticide applicator firms that are licensed in categories which will require the firms to notify persons on the registry.

(b) County public health departments.

(c) Upon request, commercial applicators who are certified in a category that will require the applicators to notify persons on the registry.

(8) Before a lawn or ornamental pesticide other than a general-use ready-to-use pesticide is applied on a property address listed on the most recent published registry, a commercial applicator shall notify the contact person on the registry. Notification shall take place before the application in accordance with all of the following provisions:

(a) By telephone the previous business day before a pesticide application or by written notification that is delivered in person to the residence of the listed contact person. Written notification shall include all information that is listed in subdivision (b) of this subrule and shall be left at the main entrance to the residence not less than 24 hours before application.

(b) Notification shall include all of the following information:

(i) Name, address, and telephone number of the commercial applicator or firm that makes the application.

(ii) Anticipated date and approximate time of the application.

(iii) Location of the application.

(iv) ~~Common name~~ Name of the pesticide **active ingredient or indredients** or ~~pesticides~~ being applied.

(c) If the initial application date is postponed, new notification shall be issued before the next application as required by subdivision (a) of this subrule.

(d) The licensee's responsibility to notify a person who requires notification shall be considered discharged if any 1 of the following provisions is complied with:

(i) Telephone notification is attempted on the business day before application and, if unsuccessful, the applicator has left written notification at the person's residence at the time of application.

(ii) Written notification is delivered in person not less than 24 hours before application.

(iii) The applicator obtains written authorization from the contact person for alternate methods of notification.

(e) The registry shall be subject to annual review by the department.

(f) This rule shall not apply to applications of pesticides that are made through a closed injection system.

R 285.637.6 Mixing and loading ~~operations~~ **facilities**.

Rule 6. (1) ~~Within 1 year of the effective date of this rule, p~~ Pesticide mixing or loading shall not occur at a mixing and loading facility unless the mixing or loading is in compliance with the provisions of this subrule. Mixing and loading ~~operations~~ shall **only** occur on a pad that is in compliance with all of the following requirements:

(a) The pad shall be constructed with impervious materials, such as sealed concrete, plastic, stainless steel, **fiberglass** or other approved materials.

(b) ~~To prevent the release of pesticides or pesticide-containing materials to the environment, t~~ The pad shall be bermed, curbed, sloped, or otherwise designed to contain spills, leaks, releases, or other

discharges that are generated during the mixing and loading of pesticides or pesticide-containing materials.

(c) Pesticides or pesticide-containing materials that are collected by the pad shall be contained either by the pad itself or drained, pumped, or transferred to an additional impermeable, aboveground holding tank or reservoir until utilized or disposed of in compliance with applicable local, state, and federal laws. The holding tank or reservoir shall be suitably constructed to prevent the release of pesticides or pesticide-containing materials to the environment.

(d) The pad or holding tank or reservoir shall be able to contain the amount of pesticide that could be discharged **during 1 minute of mixing or loading** ~~from mixing, loading, or application equipment during 1 minute of the mixing or loading operation.~~

(e) Mixing or loading pads which are located outdoors and which are not covered shall also meet either of the following criteria:

(i) Have the capacity to ~~recover and~~ contain a 6-inch rainfall.

(ii) Be cleaned of all pesticide residues immediately after spills ~~so that~~ **to prevent** contaminants ~~are not present in~~ **from entering** rainwater runoff.

(f) Any portable pad or retractable pad that is stored in a manner to prevent the interception and subsequent runoff of pesticide-containing material shall not be subject to the provisions of subdivision (e) of this subrule.

(g) The mixing or loading of pesticides shall not occur unless a primary shutoff ~~valve or switch~~ **mechanism is immediately accessible** ~~is placed within immediate reach of the person who is engaged in the mixing or loading operation.~~ In addition, an emergency shutoff ~~valve or switch~~ **mechanism** shall be located upstream from the primary shutoff ~~valve~~ **mechanism** and shall be positioned to be fully operated within 30 seconds. ~~The emergency shutoff will be located as near to the source of the filling material as possible and still be within 30 seconds of reach by the person who is engaged in the mixing or loading operation. This subrule does not apply to pesticide applicators that use hand-held equipment.~~

(h) The requirements of this rule shall not apply to hand-held equipment.

(2) A pesticide-producing establishment that is in compliance with the provisions of R 285.640.10 pertaining to operational area containment is exempt from the provisions of this rule.

(3) An agricultural mixing or loading facility that maintains a mixing and loading pad in accordance with the provisions of this rule is exempt from maintaining a second mixing and loading pad at a location where pesticides are mixed with anhydrous ammonia for a period of not more than 60 days in any calendar year.

R 285.637.7 Washing and rinsing ~~operations~~ **facilities**.

Rule 7. ~~Within 1 year of the effective date of this rule,~~ The washing or rinsing of pesticide residues from application equipment, mixing equipment, or other items that are used for the storage, handling, ~~transportation,~~ or use of a pesticide shall not be performed at a washing or rinsing facility other than in a designated wash or rinse containment area as required by this rule. Washing and rinsing in a wash and rinse water containment area shall be in compliance with all of the following provisions:

(a) Washing and rinsing shall occur on a pad that is constructed of impervious materials, such as sealed concrete, plastic, stainless steel, **fiberglass**, or other approved material.

(b) The pad shall be designed to contain pesticides and pesticide-containing materials that are generated during ~~the washing and rinsing operation~~ and prevent the release of such material to the environment.

(c) Washing and rinsing may occur ~~on~~ **at** a mixing ~~or~~ **and** loading pad ~~if washing and rinsing is in accordance with the requirements of this rule~~ **facility**.

(d) The requirements of this rule shall not apply to any of the following:

- (i) Situations that constitute an emergency where washing or rinsing pesticide residues from equipment or other items is necessary to prevent imminent harm to human health or the environment.
- (ii) Aircraft used by aerial applicators.
- (iii) ~~Applicators that use h~~ Hand-held equipment.
- (iv) Any other equipment that is excluded by the director after a review of supporting documentation.
- (v) **Pesticide containers being prepared for disposal consistent with their label directions or R 285.637.8.**

R 285.637.8 Management of excess pesticides and pesticide-containing materials.

Rule 8. (1) Persons who have pesticide-containing materials that consist of pesticides for which federal or state registration has not been suspended may, except as provided in subrules (3) and (4) of this rule, use these materials as a pesticide in accordance with the instructions for use on the label of the pesticide or pesticides they contain. Both of the following uses of pesticides or pesticide-containing material are considered to be uses in accordance with label directions:

(a) The application of a pesticide or pesticide-containing material to a **labeled** site ~~that is specified on the label of the pesticide or pesticides that are contained in the material in a manner so that the total application rate of application of the active ingredient to the site is not more than the rate allowed on the label or so that the application complies with specific instructions~~ **does not exceed directions for use** provided on the label ~~for the use of pesticide-containing materials.~~

(b) Pesticide-containing materials that are used as diluents in subsequent mixtures of pesticides and diluents if the subsequent applications of such mixtures are in compliance with the provisions of subdivision (a) of this subrule.

(2) Soils, sediments, debris, or other pesticide-containing material may be used as a pesticide under the provisions of these rules if the person who manages the material knows the amount of active ingredient in the material or can estimate the largest possible amount of active ingredient in the material being managed either because of having direct knowledge of the amount of pesticide that is contained in the material or as a result of testing the material. Application of material for which the amount of active ingredient is unknown or cannot be estimated is prohibited.

(3) A person who has quantities of pesticide-containing materials and who does not intend to use these materials as pesticides in compliance with the provisions of subrule (1) of this rule shall follow the instructions for **product and container** disposal on the label of the pesticide. A person who recycles, recovers, or otherwise handles pesticide-containing materials in compliance with applicable local, state, and federal solid waste laws shall be considered to be in compliance with the label directions for disposal, even if a method of disposal or handling that is used is not specified in the instructions for disposal on the pesticide label.

(4) Soils, sediments, debris, or other solids that contain pesticides that may have been altered as a result of a fire or other occurrence shall not be used as a pesticide unless laboratory analysis is obtained to confirm that the material may still be effectively used as a pesticide.

(5) Spills, leaks, releases, or other accidental discharges of pesticides or pesticide-containing materials shall be promptly contained and recovered in a manner that assures the protection of human health and the environment. Surfaces that intercept such discharges shall be promptly cleaned to assure maximum recovery. Recovered pesticides and pesticide-containing materials and materials that are used to contain, minimize, absorb, or collect spills shall be managed in accordance with ~~the provisions of~~ subrule (1)(a) of this rule.

(6) A person shall not dispose of or handle any pesticide or any pesticide-containing material as follows:

- (a) In a manner that is inconsistent with its labeling.

- (b) So as to cause or allow a discharge to the environment in a manner that is inconsistent with the label instructions for use or disposal.
- (c) So as to violate any state or federal pollution control statute.
- (d) So as to cause or allow burying in a land site in a manner that is not in compliance with applicable state and federal solid waste regulations.
- (e) So as to cause or allow the storage of pesticides or pesticide-containing materials, including rinsate or wash water, in underground tanks. This prohibition does not apply to watertight catch basins that are used for temporary collection or other recirculating systems as approved by the director.

R 285.637.9 Personal protective equipment.

Rule 9. (1) A pesticide applicator shall follow label directions regarding personal protective equipment.

~~(2) Personal protective equipment shall be appropriate relative to the potential exposure present at the application site or the type of pesticide use operation to be performed.~~

~~(3)~~(2) Commercial applicators who use a pesticide shall comply with all of the following minimum protective equipment requirements, unless otherwise directed by the pesticide product label:

- (a) Long pants shall be worn.
- (b) ~~Protective footwear~~ Footwear that provides protection from exposure to the pesticide being used shall be worn.
- (c) Long-sleeve clothing shall be worn. Short-sleeve clothing may be worn if ~~wash water and soap~~ **or other protection is in place that provides comparable or great protection** ~~waterless soap~~ is immediately available and ~~it~~ **short-sleeve clothing** is not prohibited by the pesticide label.
- (d) Gloves that are impervious to the pesticide in use shall be worn in any situation where the individual's hands are likely to come into contact with a pesticide, unless ~~a program is in place that offers comparable applicator protection~~ **other protection is in place that provides comparable or greater protection.**
- ~~—(e) A person who uses pesticides shall use additional appropriate protective equipment where the likelihood of pesticide exposure exists.~~

R 285.637.10 Off-target pesticide drift.

Rule 10. (1) Pesticide applications shall be made in a manner that minimizes off-target drift, unless prior authorization and consent as specified in subrule (3) of this rule is obtained from the owner or resident of the land onto which drift may occur.

- (2) Before making a pesticide application, an applicator shall do both of the following:
 - (a) Determine the likelihood of off-target drift.
 - (b) Determine the direction of possible off-target drift and any sensitive areas that may be impacted.
- (3) When pesticide off-target drift is ~~anticipated~~ **likely to occur** due to the nature of the application **or atmospheric conditions, including, but not limited to wind speed and direction**, a drift management plan shall be utilized by the applicator to minimize the occurrence and adverse effects of off-target drift. The plan shall include provisions to secure the informed consent of residents in the affected area before making the application. If, in the course of making an application ~~when off-target drift occurs is not anticipated, there arises an occurrence of off-target drift~~, the applicator shall notify the residents in the affected area either verbally or with ~~appropriate signs~~ **written notification which includes the name, address, and phone number of a person who may be contacted and who is responsible for supplying information concerning the application** before leaving the application site. The drift management plan shall include drift minimization practices. Such practices may include any of the following:

(a) ~~The use of the largest spray droplets that are created by a combination of special nozzles, pressures, and particulating agents to accomplish the objectives of the applications~~ **a possible combination of nozzles, pressure, or volume to manage droplet size.**

(b) The use of ~~specialized~~ equipment that is designed to minimize off-target drift.

(c) ~~The use of the closest possible spray release to the target~~ **consideration of release distance to target to maximize deposition.**

(d) ~~The use of the lowest effective rates of application of the pesticide~~ **drift reduction additives.**

(e) The establishment of a no-spray buffer zone. The buffer zone may be treated with nonpowered equipment.

(f) The identification of the maximum wind speed and direction under which applications can be made.

(g) The use of wind shields or windbreaks to contain spray drift or deflect spray drift ~~away from sensitive areas.~~

(h) Other specific measures stated in the plan that are effective in minimizing the incidence of off-target drift.

(4) Drift management plans shall be in writing. The plan will state the measures to be used and how those measures will reduce ~~the impact of~~ off-target drift. The drift management plan shall be annually reviewed by the person who utilizes the plan.

(5) A record of the sites where the drift management plan was implemented and a copy of the drift management plan shall be retained for a period of 1 year for general use pesticides and 3 years for restricted use pesticides and shall be made available to the director upon request.

(6) Operating under a drift management plan does not exempt an applicator from complying with appropriate federal or state statutes and regulations. However, the department shall consider the presence and use of a drift management plan as a factor in determining appropriate enforcement action.

~~(7) Pesticide off target drift shall not include the off target movement of a pesticide by means of erosion, volatilization, or windblown soil particles after the application of a pesticide.~~

R 285.637.11 **Commercial** Notification and posting requirements.

Rule 11. (1) ~~A commercial applicator shall comply with this rule when making a broadcast, foliar, or space application of pesticides, other than a~~ **The requirements of this rule shall not apply to general-use ready-to-use pesticide.**

(2) When making a broadcast, foliar, or space application of pesticides to an ornamental or turf site, other than a golf course or farm production operation, ~~an~~ **commercial** applicator shall comply with both of the following provisions:

(a) In addition to requirements specified in R 285.637.12(1) and (2), an applicator shall inform a customer that lawn markers should remain posted for 24 hours, after which time the customer should remove the lawn markers.

(b) Immediately following the application, a commercial applicator shall place a lawn marker sign at the primary point or points of entry. Lawn markers **specified in subrule (1) of this rule** shall **only be used when making pesticide applications and shall** be in compliance with all of the following specifications:

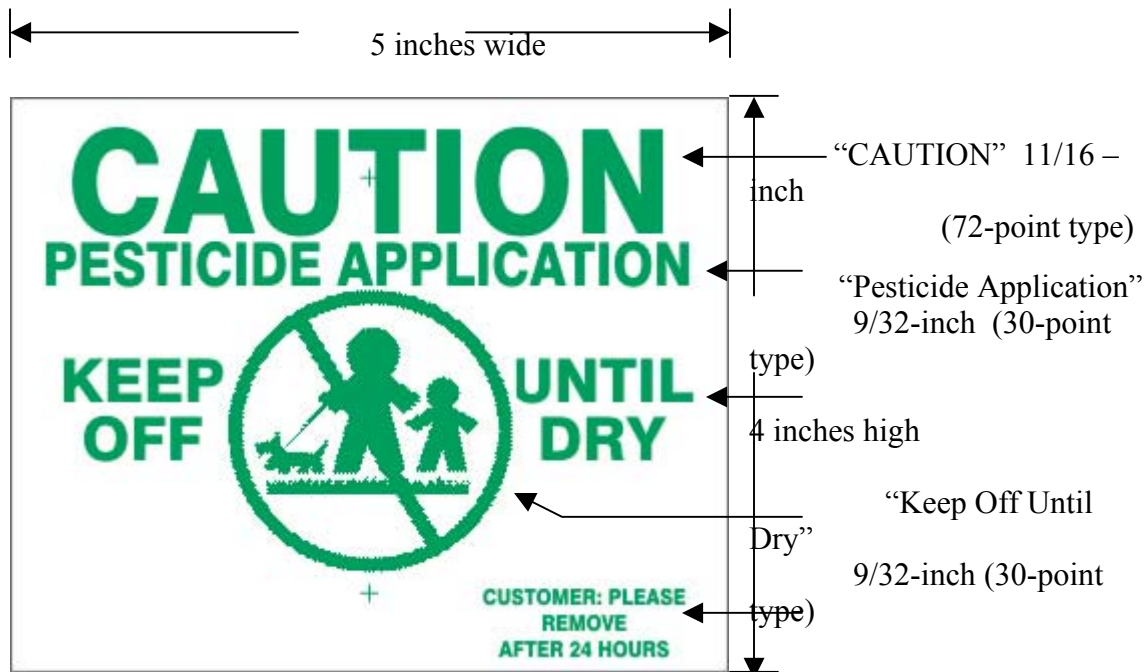
(i) ~~Be a minimum of~~ **standard size of** 4 inches high by 5 inches wide.

(ii) Be constructed of ~~sturdy~~ **rigid**, weather-resistant material.

(iii) Be attached to a supporting device with the bottom of the marker extending not less than 12 inches above the turf.

(iv) Be **identically** printed **on both sides** in green letters on a white background using the indicated point type size.

- (v) Include ~~all of~~ **only** the following information:
 - (A) The statement "CAUTION" in 11/16-inch high (72-point) type.
 - (B) The statement "Pesticide Application" in 9/32-inch (30-point) type.
 - (C) The statement "Keep Off Until Dry" in 9/32-inch (30-point) type.
 - (D) Have not less than a 2-inch diameter circular illustration that depicts an adult and child walking a dog on a leash. The illustration shall depict, using a diagonal line across the circle, that this action is prohibited.
 - (E) The statement "Customer: Please Remove After 24 Hours" in 3/32-inch (11-point) type.
 - (F) **Additional information not required under subrule (1) of this rule may only be placed on the lawn marker or supporting device with the written approval of the department.**



- (3) All broadcast, foliar, or space pesticide applications that are made to public or private golf courses by an **commercial** applicator shall be in compliance with all of the following provisions:
 - (a) Applicators shall notify users of, or visitors to, the golf course in accordance with all of the following requirements:
 - (i) Notification of pesticide application shall be provided on a poster or placard that is constructed of all-weather material.
 - (ii) The poster or placard shall contain a general statement that from time to time pesticides are in use in the management of turf and ornamental pests.
 - (iii) The poster or placard shall state that questions or concerns that arise in relation to the pesticide application shall be directed to the golf course superintendent or his or her designated representative.
 - (iv) The poster or placard shall state that, upon request, the superintendent or his or her representative will supply the information specified in subdivision (b) of this subrule.
 - (v) The poster or placard shall be displayed prominently in the pro shop, locker rooms, or registration area.

(b) At the time of broadcast, foliar, or space pesticide application to golf course property, the applicator shall post, on the first and tenth tees, in a conspicuous place, a sign that states all of the following information:

- (i) The date and time of application.
 - (ii) The common name of the pesticide applied.
 - (iii) The areas treated.
 - (iv) The label reentry precautions.
 - (v) The name of a person who may be contacted for further information.
- (c) Posting requirements shall remain in effect until specific label reentry requirements have been fulfilled.

(4) ~~A person~~ **A commercial applicator** who makes an **broadcast, foliar, or space** insecticide application ~~to in a commercial building, or public building, or health care facility, licensed day-care center, or school~~ shall comply with ~~this subrule~~ **all of the following**:

(a) The applicator shall, upon completion of an insecticide application, provide a sign to be displayed in a readily observable place at the primary point of entry by the building manager.

(b) The applicator shall instruct the building manager that the sign must be displayed and remain posted for not less than 48 hours after the most recent application of an insecticide.

(c) The building manager shall post all signs provided by the applicator in accordance with this subrule.

(d) Signs that are used for posting shall be in compliance with the following specifications:

- (i) The sign shall be a minimum of 2 1/2 inches high by 2 1/2 inches wide.
- (ii) Information shall be in black letters on a muted background.
- (iii) The sign shall have an illustration which is not less than 1 3/4 inches high by 2 inches wide and which depicts a cloud symbol encompassing a house. This illustration shall serve to inform the public that insecticides have been applied ~~on in the premises~~ **building**.
- (iv) The sign shall have a space provided in which the date of application is to be indicated by the applicator. This information shall read: "DATE _____" in a **minimum** 1/8-inch (16-point) type.

(5) All of the following provisions apply to notification requirements for community or right-of-way applicators:

(a) A commercial applicator shall not make a broadcast or foliar application of pesticides for community or right-of-way pest management without making ~~reasonable~~ **documented** efforts to provide prior notification to persons who own or reside on property that is within the target area or to their authorized representatives. Prior notification shall be provided by the commercial applicator or his or her agent.

(b) ~~Reasonable~~ **Documented** efforts to notify property owners, their agents, or persons who **own or** reside **on property that is** within the target area for community mosquito control pesticide applications include at least 1 of the following methods:

- (i) Personal contact.
- (ii) A comprehensive community outreach program, which shall be filed annually with the director.
- (iii) Prior written notification.

(c) Commercial applicators who make community pesticide applications for mosquito control shall ~~establish and utilize a mechanism for both~~ **do all** of the following:

(i) ~~Providing prior notification to persons who request it or excluding the property of those persons who request it from mosquito pesticide applications.~~

(ii) Exclude mosquito pesticide applications from the property of those persons who request it.

(iii) ~~Responding to public inquiries about the pesticide application and providing information about it.~~ **Provide general information or literature about the pesticide application in response to inquiries within the targeted community. This does not include any proprietary or confidential business information.**

(d) Reasonable efforts to notify property owners, their agents, or persons residing within the target area for right-of-way or community pesticide applications other than those for mosquito control **shall** include at least 1 of the following methods:

- (i) Personal contact.
- (ii) Advertisement in at least 1 newspaper of general circulation within the area of application. The notice shall be placed in the legal advertisement section.
- (iii) Prior written notification.
- (e) Notification of property owners shall include all the following information:
 - (i) The name, address, and phone number of the application firm or individual.
 - (ii) The brand name and active ingredients of the pesticide or pesticides used.
 - (iii) The method of application.
 - (iv) The scheduled date or dates of application.
 - (v) The name, address, and phone number of a person who may be contacted and who is responsible for supplying updated information concerning the application for those people who request it.
 - (vi) Any reentry restrictions.
- (f) Multiple-use areas shall be posted for not less than 24 hours at the primary point or points of entry immediately after a pesticide application has occurred within the area. The posting shall state all of the following information:
 - (i) The name, address, and phone number of the application firm or individual.
 - (ii) The brand name and active ingredients of the pesticide or pesticides used.
 - (iii) The date of the application.
 - (iv) ~~Information on any reentry restrictions.~~ **Precautionary warnings or reentry restrictions that appear on the label of the pesticide or pesticides that are applied.**

(g) Upon petition, the director may exempt community or area-wide applicators from the requirements of subdivision (f) of this subrule if there is sufficient documentation to indicate that residues of a particular pesticide are not detectable after application.

(h) Notification requirements shall be waived in the event of a public health emergency as determined by the Michigan department of ~~public~~ **community** health.

R 285.637.12 Applicator service agreements.

Rule 12. (1) Before applying a pesticide, a commercial applicator who is required to be licensed by the act, or his or her authorized agent, shall enter into an oral or written service agreement with the customer or authorized agent. The agreement shall specify all of the following:

- (a) The customer's consent to services.
 - (b) The name, address, and telephone number of the firm that provides the pesticide application services.
 - (c) The approximate schedule, ~~and frequency,~~ **and duration** of anticipated services.
- (2) Not later than at the time of each pesticide application, a commercial applicator who is required to be licensed by the act, or his or her authorized agent, shall provide all of the following written information to the customer or to the customer's authorized agent:
- (a) The name, address, and telephone number of the firm that provides the pesticide application services.
 - (b) The full name of the applicator who provides services.

- (c) A general description of the target pest or pests to be controlled.
 - (d) A list of the pesticides applied, including the common name of the active ingredient.
 - (e) The time and date of the application.
 - (f) ~~Precautionary~~ **Applicable precautionary** warnings ~~or reentry restrictions which are pertinent to the protection of humans, animals, or the environment at the application site and which appear on the label of the pesticide or pesticides that are applied.~~
- (3) Not later than at the time of initial pesticide application, a commercial applicator who is required to be licensed by the act, or his or her authorized agent, shall provide all of the following written risk and benefit information to the customer or the customer's authorized agent:
- (a) The definition of a pesticide.
 - (b) A general description of how pesticides work.
 - (c) Why pesticides are used.
 - (d) General toxicity information related to all of the following:
 - (i) The type of compound used.
 - (ii) The environment in which the pesticide is applied.
 - (iii) General exposure information.
 - (iv) The amount or rate of pesticide applied.
 - (v) Proper pesticide applications in compliance with the label.
 - (e) Common sense precautionary measures for the customer regarding pesticides.
 - (f) General information on the environmental fate of pesticides.
 - (g) Instructions to the customer to discuss site preparation and precautionary measures with the pesticide applicator.
 - (h) Instructions to the customer to consult with a physician if an unusual reaction occurs.
- (4) A commercial agricultural or aerial applicator may provide the information specified in both of the following provisions to the customer or the customer's authorized agent in place of the information requirements specified in subrules (2) and (3) of this rule:
- (a) Oral instructions to the customer or the customer's authorized agent on labeled reentry and preharvest interval requirements before application.
 - (b) A copy of the risk and benefit information sheet or the pertinent section of the label that pertains to risks and benefits.
- (5) If an emergency requires immediate pesticide application, the information that is required in subrule (2) of this rule may be provided after the application has occurred.
- (6) The department reserves the right to review and prohibit the use of written information required to be provided to customers in subrule (3) of this rule if the director determines that the information does not meet the intent of subrule (3) of this rule.
- (7) The duration of a service agreement shall not be more than 12 months unless either written notification of continuation of service is provided annually or unless the service agreement is a signed contract that specifies a definite time period during which the contract is valid. Written notification of continuation of service shall provide information to the customer regarding how to discontinue service.
- (8) When requested by the customer or his or her authorized agent, the commercial applicator shall provide all of the following documents to the customer:
- (a) Product labels.
 - (b) Material safety data sheets.
 - (c) Environmental protection agency fact sheets, if available.
 - (d) A document that specifies the rate of application of the active ingredients of the products applied.
- (9) If the customer is acting in the interest of residents of the treated premises, then the customer shall make the information provided in this rule available to the residents upon request.**

R 285.637.13 Misrepresentation of pesticide safety prohibited.

Rule 13. A commercial applicator shall not make false, misleading, deceptive, or fraudulent representations concerning pesticide safety. All of the following claims or statements are prohibited:

- (a) Any statement that ~~directly or indirectly implies that~~ a pesticide is recommended or endorsed by any federal or state agency.
- (b) Claims of absolute safety.
- (c) ~~Nonnumerical~~ **Unsubstantiated** or comparative statements on the safety of the pesticide, including **but not limited to** any of the following statements:
 - (i) "Contains all natural ingredients."
 - (ii) "Among the least toxic chemicals known."
 - (iii) "Pollution approved."

R 285.637.14 Integrated pest management.

Rule 14. ~~Within 180 days of the effective date of this rule, f~~For all pesticide applications other than sanitizers, germicides, disinfectants, or anti-microbial agents made in schools, public buildings, **day care centers**, and health care facilities, both of the following provisions shall be complied with before any pesticide application:

(a) A pesticide applicator shall have **verifiable** participation in a ~~verifiable~~ training program which is approved by the director, and which includes all of the following integrated pest management elements:

- (i) Site evaluation, including all of the following:
 - (A) Site description.
 - (B) Site inspection.
 - (C) Site monitoring.
 - (D) The concept of threshold levels.
- (ii) The relationship between pest biology and pest management methods.
- (iii) Pest management methods, including population reduction techniques, such as mechanical, biological and chemical techniques, and pest prevention techniques, such as habitat modification.
- (iv) The development and implementation of an integrated pest management program, with consideration for reducing the possible impact of pesticide use on human health and the environment, including people with special sensitivities to pesticides.
- (v) Evaluation of an integrated pest management program to determine the program's effectiveness and need for modification.
- (vi) Recordkeeping requirements **for public buildings and health care facilities the same as those as defined in subdivision (b)(ii) of this rule MCL 324.8304(6)(b) for schools and day care centers.**
- (vii) The need to communicate with, and enlist the assistance of, building managers for the implementation of integrated pest management programs.

(b) A ~~verifiable~~ **written** integrated pest management program shall be in place for ~~the~~ **each building in which pesticide applications take place. A copy of t**The integrated pest management program shall be located at the school, public building, day care center or health care facility and shall include all the same elements as defined in MCL 324.8304(6) for schools and day care centers. ~~include all of the following elements:~~

- ~~(i) The following integrated pest management practices and principles:~~
 - ~~(A) Site evaluation, including site description, inspection, and monitoring.~~
 - ~~(B) Consideration of the relationship between pest biology and pest management methods.~~

- ~~—(C) Consideration of all available pest management methods, including population reduction techniques, such as mechanical, biological, and chemical techniques and pest prevention techniques, such as habitat modification.~~
- ~~—(D) Pest control method selection, including consideration of the impact on human health and the environment.~~
- ~~—(E) Continual evaluation of the integrated pest management program to determine the program's effectiveness and the need for program modification.~~
- ~~—(ii) Recordkeeping which shall be maintained by the applicator and which shall include all of the following:~~
 - ~~—(A) The site address.~~
 - ~~—(B) The date of service.~~
 - ~~—(C) The target pest or pests.~~
 - ~~—(D) The inspection report, including the number of pests found or reported, and the conditions conducive to pest infestation.~~
 - ~~—(E) The pest management recommendations made by the applicator, such as structural or habitat modification.~~
 - ~~—(F) The structural or habitat modification or other measures that were initiated as a part of the pest management program.~~
 - ~~—(G) The name of the pesticide or pesticides used.~~
 - ~~—(H) Quantity of pesticide or pesticides used.~~
 - ~~—(I) The location of the area or room or rooms where pesticides are applied.~~
 - ~~—(J) The name of the applicator.~~
 - ~~—(K) The name of the pest control firm, if a firm is employed, and the emergency telephone number.~~
- ~~—(iii) With respect to a commercial applicator, provision of the following information to the building manager:~~
 - ~~—(A) The integrated pest management program and initial service inspection record, which shall be provided at the time of initial service.~~
 - ~~—(B) A record that includes the information specified in paragraph (ii) of this subdivision, which shall be provided at the completion of each service call.~~
- ~~—(iv) The acceptance of responsibility by the building manager to post the required signs as provided by the pesticide applicator in R 285.637.11(4)(c).~~

R 285.637.15 Pesticide use in and around schools **and day care centers.**

Rule 15. (1) All **pesticide** applications of ~~insecticides, fungicides, and herbicides that are made in and around schools and day care centers~~ **other than sanitizers, germicides, disinfectants, and anti-microbial agents that are made in and around schools, public buildings, day care centers, and health care facilities,** are subject to the provisions of this rule.

~~(2) Liquid spray or aerosol insecticide applications shall not be made in a room of a school building unless the room will be unoccupied by students for not less than 4 hours after the application or unless the product label requires a longer reentry period. The building manager shall be notified of the reentry restrictions by the applicator.~~

~~(3)~~**(2)** Outdoor ornamental and turf applications of liquid spray pesticides shall not be made on school grounds within 100 feet of occupied classroom buildings during normal school class hours or when persons are using the treatment area.

~~(4)~~**(3)** An **pesticide** applicator shall notify the school's **or day care center's** building manager of any reentry intervals that are required by labels of any pesticide that the applicator has applied in a school building or **day care center, or** on any school **or day care center** property.

(4) Annual notification of pesticide applications required under MCL 324.8316(2) shall include designation of the commonly used primary entrances at which posting of pesticide application information required under MCL 324.8316(3) shall occur.

~~(5) Within 30 days of the promulgation of this rule, and thereafter within 30 days of the beginning of each school year, the primary administrator for a school district or his or her designee shall provide written notification to parents or guardians of children attending that school of their right to be informed before any pesticide application is made to school property.~~

~~—(6) Within 30 days of the promulgation of this rule, and thereafter during September of each year, the operator of a day care center shall provide written notification to parents or guardians of children in the day care program of their right to be informed before any pesticide application is made to the day care center premises. The operator shall also provide notification to the parents or guardian of any new child who is enrolled in the day care center throughout the year.~~

~~—(7) The notice required in subrules (5) and (6) of this rule shall be mailed or delivered directly to the parent or guardian of the child in attendance at the school or day care center and shall contain all of the following information:~~

~~—(a) A statement that pesticides are periodically applied to school or day care center property.~~

~~—(b) A statement that parents and guardians have the right to request prior notification of pesticide applications to the building or grounds.~~

~~—(c) Specific directions as to how a parent or guardian can be included on the list for prior notification, which shall include both of the following:~~

~~—(i) The name of a contact person, including his or her telephone number, at the school or day care center who is responsible for compiling the list.~~

~~—(ii) A form that parents or guardians may return to the contact person to request inclusion on the prior notification list.~~

~~—(d) A statement that pesticides may be applied in an emergency situation without prior notification to parents or guardians, but that parents or guardians will be notified of the application after it occurs.~~

~~—(8) The administrator or operator referred to in subrule (5) or (6) of this rule shall provide the following information to parents or guardians who request the information before the application of any pesticide to the building or grounds of a school or day care center:~~

~~—(a) The approximate location of the pesticide application.~~

~~—(b) The scheduled date or day of the pesticide application.~~

~~—(9) Prior notification shall be provided not later than the day before the scheduled application date and may be conveyed by any of the following means:~~

~~—(a) A telephone call where direct contact is made with a parent or guardian or where a message is recorded on an answering machine.~~

~~—(b) A written notice mailed not less than 3 days before application.~~

~~—(c) A written notice sent home with the child.~~

~~(d)(4) During the months when school is not in regular session, school administrators may utilize a message notification system, such as voice mail, that parents or guardians may access at least 1 day before application. If this alternative is utilized, parents or guardians shall be advised of the telephone number where how the information may be obtained.~~

~~(10) The department shall provide, upon request, a form that may be used by schools or day care centers to provide parents or guardians with the notification required in subrules (5), (6), (7), and (8) of this rule.~~

~~—(11) If an emergency situation exists, a school or day care center may apply a pesticide without prior notification to parents or guardians. The school or day care center shall, after application, promptly~~

~~notify the parents or guardians who have requested information pursuant to subrule (7) of this rule that a pesticide was applied for an emergency purpose and the information specified in subrule (8) of this rule.~~

R 285.637.17 Penalties for violation of local pesticide ordinances.

Rule 17. (1) A local unit of government shall utilize the following schedule of fines for violation of local ordinances authorized by section 21a(3) of the act:

(a) A violation of R 285.637.5(8), which requires prior notification to persons on the registry, shall be subject to a fine of \$50.00 for the first offense, \$100.00 for the second offense, \$250.00 for the third offense, and \$500.00 for the fourth offense.

(b) A violation of R 285.637.11(1), (2), ~~(3)~~, or ~~(5)~~ (4), which requires posting of lawn and ornamental sites, golf courses, community applications, and rights-of-way, shall be subject to a fine of \$25.00 for the first offense, \$50.00 for the second offense, \$100.00 for the third offense, and \$200.00 for the fourth offense.

(c) A violation of R 285.637.11~~(4)~~ (3), which requires applicators to provide building managers of commercial or public buildings, health care facilities, day-care centers, and schools with signs, shall be subject to a fine of \$25.00 for the first offense, \$50.00 for the second offense, \$100.00 for the third offense, and \$200.00 for the fourth offense.

(d) A violation of R 285.637.11~~(4)~~ (3)(c) by a building manager shall be subject to a formal warning for the first offense, a fine of \$50.00 for the second offense, a fine of \$100.00 for the third offense, and a fine of \$200.00 for the fourth offense.

(e) A violation of ~~R 285.637.15(5) to (9)~~ **MCL 324.8316(2) to (4)**, requiring schools and day-care centers to provide information regarding pesticide applications to parents or guardians, shall be subject to a fine of \$25.00 for the first offense, \$50.00 for the second offense, \$100.00 for the third offense, and \$200.00 for the fourth offense.

(2) Multiple violations of a particular ordinance or rule that occur on the same day shall be treated as 1 violation.

(3) Each type of offense shall accumulate on a calendar year for each person subject to the local ordinance, so that at the beginning of each calendar year the offense cycle begins again, except that, for purposes of subrule (1)(d) of this rule, a building manager who has previously received a formal warning shall be subject to a fine of \$25.00 for the first offense.

(4) All offenses shall be considered as a single violation of each type until a person is notified of the issuance of a citation by the authorized local government agency.

(5) A local unit of government shall notify the person or firm alleged to be in violation within 72 hours of the issuance of a citation.

(6) A person may appeal a citation and fine assessment to the department.

(7) A local unit of government shall refer a fifth or subsequent violation by a person within a calendar year to the department for investigation and enforcement action.

(8) A local unit of government shall notify the department within 10 working days of the issuance of a citation for a violation of a local ordinance pursuant to the act.

(9) A local unit of government shall not assess fines for violations that occur before there is an incident or complaint that precipitates an investigation or before there is an observation by a local official.

NOTICE OF PUBLIC HEARING

SOAHR 2006-078
NOTICE OF PUBLIC HEARING
MICHIGAN DEPARTMENT OF AGRICULTURE
PESTICIDE AND PLANT PEST MANAGEMENT DIVISION

The Michigan Department of Agriculture, Pesticide and Plant Pest Management Division, will conduct a public meeting on Friday, September 21, 2007, beginning at 1 p.m., at Constitution Hall, Con Con Conference Room, Atrium Level, 525 West Allegan Street, Lansing, Michigan, 48909. The hearing will be held to receive comments on proposed changes to the rules of Regulation No. 637 Pesticide Use. Written comments may be submitted by 5:00 p.m. on September 21, 2007, to the address below.

The proposed amendments to Regulation 637 are being promulgated to address issues related to conflicts between the regulation and recent passage of amendments to Act 451, Part 83, as amended, confusing verbiage, regulatory requirement details and clarification for enforceability.

The rules [Rule Set 2006-078 AC] are published on the Michigan Government website at

<http://www.state.mi.us/orr/emi/rules.asp?type=dept&id=AC&subId=2006%2D078+AC&subCat=Revision+Text>

and in the September 1, 2007 issue of the *Michigan Register*. Copies of the draft rules may also be obtained by mail or electronic submission by contacting:

Pesticide and Plant Pest Management Division
Michigan Department of Agriculture
P.O. Box 30017
Lansing, MI 48909
Telephone: (517) 373-4905
Fax: (517) 335-4540
E-mail: roweb@michigan.gov

Persons needing accommodations for effective participation in the meeting should contact the Pesticide and Plant Pest Management Division at (517) 373-4905, a week in advance to request mobility, visual, hearing, or other assistance.

Promulgation of these rules is pursuant to the authority conferred on the Department of Agriculture by the Natural Resources and Environmental Protection Act, 1994 PA 451, Part 83, as amended (MCL §324.8325 et seq.) These rules are proposed to go into effect upon filing with the Secretary of State.

Date: August 14, 2007

Dr. Phyllis Mellon, Acting Director

PROPOSED ADMINISTRATIVE RULES

SOAHR 2007-035

DEPARTMENT OF LABOR & ECONOMIC GROWTH

DIRECTOR'S OFFICE

OCCUPATIONAL HEALTH STANDARDS

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of labor and economic growth by sections 14 and 24 of 1974 PA 154 and Executive Reorganization Order Nos. 1996-1, 1996-2, and 2003-18, MCL 408.1014, 408.1024, 330.3101, 445.2001, and 445.2011)

Draft August 7, 2007

R 325.62001, R 325.62002, R 325.62003, R 325.62004, R 325.62005 and R 325.62006 are added to the Michigan Administrative code and O.H. Rule 6301 is rescinded as follows:

PART 620. VENTILATION CONTROL FOR CONSTRUCTION

R 325.62001 General.

Rule 1. (1) When hazardous substances such as dusts, fumes, mists, vapors, or gases exist or are produced in the course of construction work, their concentrations shall not exceed the limits specified in occupational health standard Part 601 Air Contaminants for Construction, R 325.60151 to R 325.60161. When ventilation is used as an engineering control method, the system shall be installed and operated according to the requirements of these rules.

(2) These rules replace occupational health rule 6301.

R 325.62002 Availability of referenced document.

Rule 2. Michigan occupational safety and health standard is referenced in these rules. Up to 5 copies of this standard may be obtained at no charge from the Michigan Department of Labor and Economic Growth, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143 or via the internet at website: <http://www.michigan.gov/mioshastandards>. For quantities greater than 5, the cost, as of the time of adoption of these rules, is 4 cents per page. The standard includes occupational health standard part 601 air contaminants for construction, R 325.60151 to R 325.60161.

R 325.62003 Local exhaust ventilation.

Rule 3. Local exhaust ventilation when used as described in rule 1 shall be designed to prevent dispersion into the air of dusts, fumes, mists, vapors, and gases in concentrations causing harmful exposure. The exhaust systems shall be so designed that dusts, fumes, mists, vapors, or gases are not drawn through the work area of employees.

R 325.62004 Design and operation.

Rule 4. Exhaust fans, jets, ducts, hoods, separators, and all necessary appurtenances, including refuse receptacles, shall be so designed, constructed, maintained and operated as to ensure the required protection by maintaining a volume and velocity of exhaust air sufficient to gather dusts, fumes, vapors, or gases from the equipment or process, and to convey them to suitable points of safe disposal, thereby preventing their dispersion in harmful quantities into the atmosphere where employees work.

R 325.62005 Duration of operations.

Rule 5. (1) The exhaust system shall be in operation continually during all operations which it is designed to serve. If the employee remains in the contaminated zone, the system shall continue to operate after the cessation of the operations, the length of time to depend upon the individual circumstances and effectiveness of the general ventilation system.

(2) Since dust capable of causing disability is, according to the best medical opinion, of microscopic size, tending to remain for hours in suspension in still air, the exhaust system shall continue in operation for a time after the work process or equipment served by the same ceases, in order to ensure the removal of the harmful elements to the required extent. For the same reason, employees wearing respiratory equipment should not remove it immediately until the atmosphere seems clear.

R 325.62006 Disposal of exhaust materials.

Rule 6. The air outlet from every dust separator, and the dusts, fumes, mists, vapors, or gases collected by an exhaust or ventilating system shall discharge to the outside atmosphere. Collecting systems which return air to work area may be used if concentrations which accumulate in the work area air do not result in harmful exposure to employees. Dust and refuse discharged from an exhaust system shall be disposed of in such a manner that it will not result in harmful exposure to employees.

~~Rule 6301 Ventilation Control. Rescinded.~~

~~(1) General.~~

~~Whenever hazardous substances such as dusts, fumes, mists, vapors, or gases exist or are produced in the course of construction work, their concentrations shall not exceed the limits specified in Rule 6201. When ventilation is used as an engineering control method, the system shall be installed and operated according to the requirements of this rule. [1926.57(a)]~~

~~(2) Local exhaust ventilation.~~

~~Local exhaust ventilation when used as described in (1) shall be designed to prevent dispersion into the air of dusts, fumes, mists, vapors, and gases in concentrations causing harmful exposure. Such exhaust systems shall be so designed that dusts, fumes, mists, vapors, or gases are not drawn through the work area of employees. [1926.57(b)]~~

~~(3) Design and operation.~~

~~Exhaust fans, jets, ducts, hoods, separators, and all necessary appurtenances, including refuse receptacles, shall be so designed, constructed, maintained and operated as to ensure the required~~

~~protection by maintaining a volume and velocity of exhaust air sufficient to gather dusts, fumes, vapors, or gases from said equipment or process, and to convey them to suitable points of safe disposal, thereby preventing their dispersion in harmful quantities into the atmosphere where employees work.~~

~~[1926.57(e)]~~

~~(4) Duration of operations:~~

~~(a) The exhaust system shall be in operation continually during all operations which it is designed to serve. If the employee remains in the contaminated zone, the system shall continue to operate after the cessation of said operations, the length of time to depend upon the individual circumstances and effectiveness of the general ventilation system. [1926.57(d)(1)]~~

~~(b) Since dust capable of causing disability is, according to the best medical opinion, of microscopic size, tending to remain for hours in suspension in still air, it is essential that the exhaust system be continued in operation for a time after the work process or equipment served by the same shall have ceased, in order to ensure the removal of the harmful elements to the required extent. For the same reason, employees wearing respiratory equipment should not remove same immediately until the atmosphere seems clear. [1926.57(d)(2)]~~

~~(5) Disposal of exhaust materials:~~

~~The air outlet from every dust separator, and the dusts, fumes, mists, vapors, or gases collected by an exhaust or ventilating system shall discharge to the outside atmosphere. Collecting systems which return air to work area may be used if concentrations which accumulate in the work area air do not result in harmful exposure to employees. Dust and refuse discharged from an exhaust system shall be disposed of in such a manner that it will not result in harmful exposure to employees. [1926.57(e)]~~

**NOTICE OF PROPOSED AND
ADOPTED AGENCY GUIDELINES**

MCL 24.208 states in part:

“Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

** * **

(h) Notice of proposed and adopted agency guidelines.”

**NOTICE OF PROPOSED AND
ADOPTED AGENCY GUIDELINES**

Notice of Adopted Guideline

[Issued pursuant to Section 24 1969 PA 306, as amended being MCL 24.224]

Effective Date: July 24, 2007

As originally approved by the Authority Board of Directors on September 1, 2004, and as approved in amended and restated form on April 16, 2007. As originally approved by the Authority Board of Directors on September 1, 2004, and as approved in amended and restated form on April 16, 2007.

**STATE OF MICHIGAN
LAND BANK FAST TRACK AUTHORITY
GUIDELINES:
POLICIES AND PROCEDURES FOR
PROPERTY ACQUISITION AND DISPOSITION**

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Foreword

The acquisition and disposition of properties, owned and managed by the State of Michigan Land Bank Fast Track Authority (the “Authority”) is in accordance with the Land Bank Fast Track Act, 2003 PA 258 (the “Act”) and the general policies and procedures contained herein. The Authority may amend these policies and procedures from time to time by resolution of the Board of Directors of the Authority (the “Authority Board”).

The acquisition, use, maintenance and disposition of properties will be in accordance with the law and according to the bylaws of the Authority.

The purpose of the Authority is to assemble or dispose of public property, including tax reverted property, in a coordinated manner to foster the development of property, which in the judgment of the Authority Board should contribute to public good, and/or to promote economic growth in this State and in the local units of government within this State. Portions of the real property inventory of the Authority may be located within the geographical jurisdiction of a local land bank authority (the “local authority”) created in accordance with the Act. The Authority is committed to the support and encouragement of the efforts of local authorities. Where possible, the Authority will reasonably coordinate its acquisition and disposition of properties within the geographic jurisdiction of a local authority with the local authority in order to advance the goals and priorities of the local authority.

Where a local land bank authority does not exist, the Authority will exercise its discretion in the acquisition and disposition of properties, coordinating with other units of local government.

As an owner of property in the State of Michigan, the Authority, within budgetary constraints, will make all reasonable efforts to maintain its property, to prevent the property from being a blighting influence, and to prevent the property from being a danger.

1. Acquisition of Property

The following criteria shall be considered in determining property to be acquired by the Authority, to facilitate development, in conjunction with the acquisition of property, to carry out the purpose of the Authority or to enhance the operation and function of the Authority:

Property strategic to implementing an economic development, neighborhood stabilization or revitalization plan or strategy undertaken by the Authority or other state agency.

Property strategic to implementing an economic development, neighborhood stabilization or revitalization plan or strategy undertaken by a local government entity pursuant to an intergovernmental agreement with the Authority.

Property strategic to implementing an economic development, neighborhood stabilization or revitalization plan or strategy undertaken by a nonprofit corporation pursuant to a community or neighborhood plan approved by the local political jurisdiction.

Property necessary to complete a land assembly project to enhance the marketability of or to protect property already held by the Authority.

Property that promotes health, safety and welfare.

Property that will generate financial resources for the operation and function of the Authority.

The Authority may acquire property as permitted by law. In determining the nature and extent of property to be acquired, the Authority shall consider the value of the property, the financial resources available for acquisition, the capacity of the Authority to own and manage the property, and the projected length of time required to convey or utilize the property for the purpose intended by the Authority in acquiring the property. All acquisitions shall require the approval of the Authority Board.

2. Disposition of Property

Conveyances. The following apply to the conveyance of property:

Real property conveyances by the Authority will be made directly by the Authority to the individual or entity responsible for undertaking the proposed development and in accordance with its stated use of the property.

The Authority will not convey real property to a local land bank authority for future speculative

conveyances to third parties. However, simultaneous closings involving property of a local land bank authority and property of the Authority may occur.

Conveyance(s) will be made at the sole discretion of the Authority.

The consideration received by the Authority for any conveyance will be determined in the sole discretion of the Authority.

To ensure the Authority receives the tax to which it is entitled, it will annually provide notice to the local taxing authority of all property conveyed by it within the local taxing authority's jurisdiction. The Authority is entitled to receive the taxes on properties pursuant to statute.

Property Specific Criteria. The following criteria will be considered to determine property that will be

conveyed by the Authority: (a) to facilitate development pursuant to 2003 PA 258, (b) to better carry out the purpose of the Authority, or (c) to enhance the operation and function of the Authority.

The Authority will consider the following factors in pricing and conveying property:

The proposed use of the property with emphasis on returning the property to taxable status or conveyance, which in the judgment of the Authority Board contributes to public good, including development which results in preserving and rehabilitating neighborhoods, promoting affordable homeownership and multiple family housing, as well as facilitating economic development and creating jobs.

The feasibility of the proposed development including financial resources, time frame for completion, site suitability including, but not limited to, size, location, land use, environmental issues, and infrastructure requirements.

The stability, ability, financial resources, nature, identity and capacity of the proposed purchaser including development experience and readiness to commence and complete development.

The potential impact of the conveyance on community and neighborhood plans approved by the local unit of government(s) with emphasis on preserving, stabilizing and restoring neighborhoods, improving and modernizing commercial and industrial areas, remediating environmental issues and promoting compatible uses of land.

The potential for the conveyance to generate proceeds to support and enhance the operation and function of the Authority.

The Authority may convey any property in its inventory in its sole discretion and establish disposition programs, including programs designed for specific areas.

Marketing Agreements with Local Land Bank Authorities. The Authority may enter into Marketing Agreements with local land bank authorities which provide for the following:

The sharing of information on a continuing basis to identify the parcels of property within a specific geographical area that are owned by the Authority and by the local land bank authority.

The ability of the Authority and local land bank authorities to solicit, receive and evaluate requests and proposals for the conveyance of property held by either the Authority or by a local land bank authority.

The ability of the Authority and local land bank authorities to prepare recommendation packages for conveyance including information on the proposed purchaser, the proposed use of the property, and the consideration.

Any notice requirements by the Authority and by the local land bank authority to each other of the proposed conveyance of any property.

Note: Marketing Agreements will provide that the party holding legal title of the property to be conveyed will make final approval of the conveyance. The Executive Director of the Authority may execute marketing agreements consistent with this policy.

Forms. The forms that the Authority uses to convey an interest in property include but are not limited to a quitclaim deed, a lease, a land contract and a grant of easement, as authorized by law.

3. Terms to be Considered

The following terms will be used to establish the consideration to be received by the Authority for the conveyance of real property.

It is presumed that the minimum monetary consideration will be no less than the Property Cost. “Property Cost” means the direct and indirect costs and expenses attributable to the property including, but not limited to, cost allocation for overhead, costs of acquisition, maintenance, repair, demolition, marketing and litigation to quiet title. The fair market value of the property will be established by an appraisal or other market valuation as determined by the Authority. The costs of the appraisal will be borne by the purchaser.

The Authority, in its sole discretion, will determine the consideration and terms of conveyance.

Requirements of Conveyance. The following requirements apply for conveyance:

The conveyance of property will be only by Quitclaim Deed.

The Authority, in its sole discretion, will determine all other terms and conditions of the conveyance.

Use. Prior to conveying the property, the range of uses that will be considered (which are not in any particular order of importance) include, but are not limited to the following:

Dedication to public use by a governmental entity.

Homeownership and affordable housing.

Return of the property to taxable status.
Land assemblage for economic development.
Provision for financial resources for operating functions of the Authority.
Green space or conservation purposes.
Elimination of blight.
Uses for childcare.
Dedication to use by a social, educational or faith based institution.
Recreation centers.
Agricultural uses.

4. Adjacent Lot Disposition Program

Property may be conveyed to an adjacent property owner in the Authority's sole discretion.

Qualified Property. Property eligible for inclusion in the Adjacent Lot Disposition Program must meet the following minimum criteria:

The Property is zoned residential, used for residential purposes, and has a common boundary line with the Purchaser's property.

The Property is not buildable according to current zoning and building codes.

The Property is not part of a proposed plan or development supported by the local unit of government requiring land assembly.

Purchaser(s). To convey property to Purchaser(s), the Authority will determine the following:

Purchaser(s) own a contiguous property.

When more than one adjacent property owner exists and each wants the same adjacent Property, the Property may be conveyed in whole or divided and conveyed at the discretion of the Authority. The Authority staff may contact adjacent property owners to ascertain interest in the Property.

Purchaser(s) has submitted a completed application to the Authority indicating the address(es) of the

Properties to be purchased.

Purchaser(s) has submitted any financial information requested by the Authority.

Purchaser(s) has submitted any other information requested by the Authority.

Consideration.

Property conveyed through the Adjacent Lot Disposition Program will have the consideration determined by the Authority, in its sole discretion.

5. Application Process

Application from an Individual. For Individual Purchasers, other than those applying for property offered through the Adjacent Lot Program, the Authority will consider a completed application from Individual Purchaser(s), which includes, but is not limited to the following:

The address(es), legal description(s), and recent photos of the property to be purchased.

The proposed development and/or use of the property.

The time frame for rehabilitation, improvement or development.

Financial documentation, which includes but is not limited to a Pre-Qualification Letter from a Lender (if financing the transaction).

A state or federal picture identification.

Applications from Organizations. For Organizations, including but not limited to, nonprofit corporations, partnerships, institutions, community groups, limited liability corporations, and joint ventures, the Authority will consider a completed application from Organizations, which includes, but is not limited to the following:

The address(es), legal description(s), and recent photos of the property to be purchased.

The proposed development and/or use of the property.

Names of key individuals on the Development Team.

The time frame for rehabilitation, improvement or development.

Financial documentation, which includes but is not limited to a Pre-Qualification Letter from a Lender (if financing the transaction).

- C. Authority Review. The Authority staff will attempt, within ninety days of receiving a completed application, to complete a review of the application. After review, the Authority staff will notify the applicant of the determination or request additional information.

6. Conveyances Requiring Board Approval and Executive Director Authority

Conveyances Requiring Board Approval. The Authority Board must approve all conveyances which are exceptions to these policies and procedures, which include, but are not limited to the following:

Any conveyance for which the ultimate use of the property will result in an exemption from property taxes.

Conveyances for projects containing greater than fifteen (15) parcels.

Conveyances involving transactions greater than \$150,000 in value.

Executive Director Authority. The Executive Director of the Authority may enter into agreements to finalize property transactions and execute conveyances on behalf of the Authority regarding the following:

Conveyances issued pursuant to the Adjacent Lot Disposition Program.

Conveyances of fifteen (15) parcels or less, unless to a single purchaser during the Authority's fiscal year.

Conveyances approved by the Authority Board under subsection A, above.

Any transaction not specifically authorized in Section 6 shall require Authority Board approval.

Other restrictions notwithstanding, the Executive Director may contract for demolition of a structure on Authority owned property provided that the demolition contract is less than \$50,000.00, and the contract complies with State budget and procurement requirements.

The Executive Director may enter into a Temporary License or an Agreement & Consent To Enter State-Owned Property as determined by the Executive Director to be in the best interest of the Authority.

- C. Reporting Requirement. All conveyances entered into by the Executive Director will be reported in writing to the Authority Board at the next Authority Board meeting.

Note: All references to powers refer to powers of the Authority except where the authority of the Executive Director is expressly mentioned.

**EXECUTIVE ORDERS
AND
EXECUTIVE REORGANIZATION ORDERS**

MCL 24.208 states in part:

“Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

(a) Executive orders and executive reorganization orders.”

EXECUTIVE ORDERS

EXECUTIVE ORDER

No. 2007-40

DECLARATION OF STATE OF EMERGENCY CITY OF FENTON, GENESEE COUNTY

WHEREAS, a severe storm moved through southern Michigan in the late afternoon of August 24, 2007, spawning several tornados and causing significant damage to buildings, trees, and electrical power lines;

WHEREAS, the city of Fenton suffered widespread and severe damage from this storm including damage to over 200 residences and 30 commercial buildings, as well as to Fenton's city hall, schools, and police department;

WHEREAS, numerous streets and roads within the city of Fenton remain blocked by fallen trees and other storm debris;

WHEREAS, the county of Genesee has declared a local state of emergency for the city of Fenton and has activated the disaster response and recovery aspects of their emergency operations plan to the fullest extent possible to cope with the situation;

WHEREAS, the County has determined that local resources are insufficient to address the situation and has requested state assistance;

NOW, THEREFORE, I, JENNIFER M. GRANHOLM, Governor of the State of Michigan, by virtue of the power and the authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, including the Emergency Management Act, 1976 PA 390, MCL 30.401 to 30.421, order the following:

1. A State of Emergency is declared in the city of Fenton in Genesee County.
2. The Emergency Management and Homeland Security Division of the Department of State Police shall coordinate and maximize all state efforts that may be activated to state service to assist local government and officials in the city of Fenton, Genesee County, and may call upon all state departments to utilize available resources to assist in the emergency area consistent with the Michigan Emergency Management Plan.

3. The State of Emergency is terminated at such time as emergency conditions no longer exist and appropriate programs have been implemented to recover from the effects of the emergency conditions but in no case later than September 22, 2007.

Given under my hand and the Great Seal of the State of Michigan this 25th day of August in the year of our Lord, Two thousand and seven.

JENNIFER M. GRANHOLM
GOVERNOR

BY THE GOVERNOR:

SECRETARY OF STATE

**ENROLLED SENATE AND HOUSE BILLS
SIGNED INTO LAW OR VETOED
(2007 SESSION)**

Mich. Const. Art. IV, §33 provides: “Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated.”

Mich. Const. Art. IV, §27, further provides: “No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.”

MCL 24.208 states in part:

“Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.

(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.”

**ENROLLED SENATE AND HOUSE BILLS
SIGNED INTO LAW OR VETOED
(2007 SESSION)**

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
1		191	Yes	3/1	3/1	3/1/07	Occupations; accounting; qualifications for certified public accountants; revise, and provide certain changes to the peer review requirement. (Sen. R. Richardville)
2		184	Yes	3/19	3/19	3/19/07	State financing and management; budget; expenditure exceeding appropriation level; require notification. (Sen. R. Jelinek)
3		166	Yes	3/19	3/19	3/19/07	Appropriations; zero budget; supplemental appropriations; provide for certain fiscal years. (Sen. R. Jelinek)
4		014	Yes	3/22	3/22	3/22/07	Agriculture; other; loan repayment for sugar beet cooperatives; extend. (Sen. J. Barcia)
5		176	Yes	3/22	3/23	3/23/07	Health facilities; other; appropriated amount of quality assurance assessment collected; increase. (Sen. D. Cherry)
6		221	Yes	4/30	4/30	4/30/07	Appropriations; supplemental; negative supplemental school aid bill; provide for fiscal year 2006-2007. (Sen. R. Jelinek)
7		404	Yes	5/4	5/4	5/4/07	Appropriations; supplemental; multidepartment supplemental for fiscal year 2006-2007; provide for. (Sen. R. Jelinek)
8	4143		Yes	5/10	5/11	5/11/07	Watercraft; violations; certain marine safety misdemeanor violations; designate as state civil infraction. (Rep. S. Bieda)

* - I.E. means Legislature voted to give the Act immediate effect.

** - Act takes effect on the 91st day after *sine die* adjournment of the Legislature.

*** - See Act for applicable effective date.

+ - Line item veto

- Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
9	4482		Yes	5/18	5/18	5/18/07	Human services; other; certain family independence program eligibility and sanction for certain noncompliance; clarify. (Rep. B. Clack)
10	4327		Yes	5/24	5/24	5/24/07	Crimes; other; prohibition against selling tomatoes that are not vine-ripened; repeal. (Rep. D. Spade)
11	4322		Yes	5/24	5/24	5/24/07	Liquor; licenses; issuance of on-premises liquor license for certain universities; expand to include certain entities located in Oakland community college and Macomb community college. (Rep. B. Farrah)
12		400	Yes	5/29	5/29	5/29/07 #	Economic development; plant rehabilitation; definition of industrial property; modify. (Sen. J. Allen)
13	4629		Yes	5/29	5/29	5/29/07 #	Economic development; plant rehabilitation; strategic response center; provide for definition. (Rep. G. McDowell)
14	4721		Yes	5/29	5/29	5/29/2007	Environmental protection; water pollution; baseline environmental assessment fee; extend sunset. (Rep. D. Bennett)
15	4530		Yes	6/6	6/6	6/6/07	Retirement; public school employees; actuarial liability contribution; modify. (Rep. L. Gonzales)
16	4512		Yes	6/6	6/6	6/6/07	Retirement; state employees; actuarial liability contribution; modify. (Rep. L. Gonzales)
17		436	Yes	6/6	6/6	6/6/07 +	Appropriations; supplemental; multidepartment supplemental for fiscal year 2007; provide for. (Sen. R. Jelinek)

* - I.E. means Legislature voted to give the Act immediate effect.

** - Act takes effect on the 91st day after *sine die* adjournment of the Legislature.

*** - See Act for applicable effective date.

+ - Line item veto

- Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
18	4850		Yes	6/12	6/12	6/12/07	State financing and management; funds; securitization of tobacco funds; increase amount. (Rep. V. Smith)
19	4207		Yes	6/14	6/14	6/14/07	Occupations; nurses; licensure of graduates from a nursing education program located outside the United States who do not have a certificate from the commission on graduates of foreign nursing schools; provide for. (Rep. H. Hopgood)
20		344	Yes	6/19	6/19	6/19/07	Criminal procedure; sentencing guidelines; citation reference for crime of receiving or concealing stolen property having a value of \$20,000 or more or with prior convictions; revise, and divide section into multiple sections and provide chapter and part headings, and allow use of interactive video technology in courts. (Sen. W. Kuipers)
21		194	Yes	6/19	6/19	6/19/07	Education; alternative; provisions regarding financial responsibility for certain children enrolled in strict discipline academies; revise. (Sen. M. Switalski)
22	4766		Yes	6/26	6/26	6/26/07	Retirement; investments; employer contribution; revise. (Rep. L. Gonzales)
23		025	Yes	6/28	6/28	6/28/07 #	Disabilities; qualified interpreter for deaf or deaf-blind individual; provide in certain circumstances. (Sen. J. Gleason)
24	4208		Yes	6/28	6/28	6/28/07 #	Disabilities; qualified interpreter for deaf or deaf-blind individual; define and provide in certain circumstances. (Rep. D. Spade)

* - I.E. means Legislature voted to give the Act immediate effect.

** - Act takes effect on the 91st day after *sine die* adjournment of the Legislature.

*** - See Act for applicable effective date.

+ - Line item veto

- Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
25	4261		Yes	6/28	6/28	6/28/07	Economic development; other; convention and tourism promotion act; provide for. (Rep. M. Sak)
26		360	Yes	6/28	6/28	6/28/07 #	Transportation; funds; deadline for projects eligible for funding through local match grant programs; extend. (Sen. J. Gilbert)
27	4556		Yes	6/28	6/28	6/28/07 #	Transportation; funds; date revisions; provide for. (Rep. J. Mayes)
28		487	Yes	6/28	6/28	6/28/07	Liens; construction; requirement that owner provide notice of receipt and a copy of sworn statement to subcontractors, laborers, and suppliers; limit to residential projects. (Sen. V. Garcia)
29	4661		Yes	6/28	6/28	6/28/07	Education; other; term as president and vice president of Detroit school board; clarify. (Rep. L. Lemmons)
30		561	Yes	6/28	6/29	6/29/07	Revenue sharing; counties; distributions to authorities; extend for current fiscal year. (Sen. J. Pappageorge)
31	4376		Yes	6/29	6/29	6/29/07	Property tax; payment and collection; collection of municipal solid waste fee; allow. (Rep. G. Cushingberry)
32		070	Yes	7/1	7/2	7/2/07	Education; teachers; date for implementation of requirement for current teachers to receive certain training concerning reading problems; extend to July 1, 2009. (Sen. N. Cassis)
33		266	Yes	7/10	7/10	7/10/07	Occupations; business licensing and regulation; household goods; provide exemption from certification by public service commission of certain carriers. (Sen. V. Garcia)

* - I.E. means Legislature voted to give the Act immediate effect.

** - Act takes effect on the 91st day after *sine die* adjournment of the Legislature.

*** - See Act for applicable effective date.

+ - Line item veto

- Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
34	4851		Yes	7/10	7/11	7/11/07	Higher education; financial aid; transfers of money by Michigan higher education student loan authority to Michigan merit award trust fund; authorize. (Rep. A. Meisner)
35	4177		Yes	7/10	7/11	7/11/07	Insurance; no-fault; premium increases or reinstatement fees for certain military personnel called into active duty; prohibit. (Rep. D. Spade)
36		094	Yes	7/12	7/12	1/1/08 #	Single business tax; replacement; Michigan business tax act; create. (Sen. N. Cassis)
37	4369		Yes	7/12	7/12	7/12/07 #	Education; financing; exemption for certain personal property from certain school operating mills; provide for. (Rep. T. Brown)
38	4370		Yes	7/12	7/12	7/12/07 #	Property tax; state education tax; tax exemption for certain industrial personal property; exempt. (Rep. M. Griffin)
39	4371		Yes	7/12	7/12	7/12/07 #	Economic development; plant rehabilitation; calculation of tax levied; revise. (Rep. M. Corriveau)
40	4372		Yes	7/12	7/12	7/12/07 #	Property tax; exemptions; commercial and industrial personal property; exempt from certain taxes. (Rep. K. Ebli)
41	4493		Yes	7/12	7/12	7/12/07	Appropriations; supplemental; multidepartment supplemental for fiscal year 2006-2007; provide for. (Rep. G. Cushingberry)

* - I.E. means Legislature voted to give the Act immediate effect.

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*** - See Act for applicable effective date.

+ - Line item veto

- Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
42	4595		Yes	7/12	7/13	7/13/07	Higher education; financial aid; eligibility for Michigan promise award; expand to include certain residents who graduated from out-of-state high schools and revise application deadline and disbursement schedule. (Rep. K. Angerer)
43		134	Yes	7/17	7/17	7/17/07	Property; conveyances; transfer of certain state owned properties in Ingham county, Wayne county, and Tuscola county; provide for, and release certain property rights reserved by the state. (Sen. M. Switalski)
44		588	Yes	7/17	7/17	7/17/07	Economic development; commercial redevelopment; corridor improvement authority; revise eligibility criteria. (Sen. S. Thomas)
45		188	Yes	7/17	7/17	7/17/07	Education; vocational; definition of vocational education and use of vocational education funds; revise, and allow certain acquisition of equipment. (Sen. G. Van Woerkom)
46		290	Yes	7/17	7/17	7/17/07	Financial institutions; mortgage brokers and lenders; licensing requirements for secondary mortgage companies; exempt certain employees and leased employees. (Sen. R. Richardville)
47		354	Yes	8/2	8/3	8/3/07 #	Natural resources; wildlife; double-crested cormorant; provide for control program. (Sen. M. McManus)
48	4471		Yes	8/2	8/3	8/3/07 #	Natural resources; wildlife; double-crested cormorant; define terms for control program. (Rep. D. Booher)

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** - Act takes effect on the 91st day after *sine die* adjournment of the Legislature.

*** - See Act for applicable effective date.

+ - Line item veto

- Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
49	4614		Yes	8/2	8/3	8/3/07 #	Natural resources; wildlife; double-crested cormorant; provide for control fund. (Rep. J. Sheltrown)
50	4884		Yes	8/13	8/14	8/14/07	State financing and management; funds; Michigan trust fund; provide general amendments for tobacco securitization. (Rep. S. Jackson)

MICHIGAN ADMINISTRATIVE CODE TABLE
(2007 SESSION)

MCL 24.208 states in part:

“Sec. 8. (1) The State Office of Administrative Hearings and Rules shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(i) Other official information considered necessary or appropriate by the State Office of Administrative Hearings and Rules.”

The following table cites administrative rules promulgated during the year 2000, and indicates the effect of these rules on the Michigan Administrative Code (1979 ed.).

**MICHIGAN ADMINISTRATIVE CODE TABLE
(2007 RULE FILINGS)**

R Number	Action	2007 MR Issue	R Number	Action	2007 MR Issue	R Number	Action	2007 MR Issue
28.4001	A	13	247.163	A	14	338.471a	*	4
28.4002	A	13	247.164	A	14	338.472	*	4
28.4003	A	13	247.165	A	14	338.473	*	4
28.4004	A	13	247.166	A	14	338.473a	*	4
28.4005	A	13	281.421	A	3	338.473d	*	4
28.4006	A	13	281.422	A	3	338.474a	*	4
28.4007	A	13	281.423	A	3	338.475	*	4
32.71	A	10	281.424	A	3	338.479a	*	4
32.72	A	10	281.425	A	3	338.489	*	4
32.73	A	10	281.426	A	3	338.2503	R	15
32.74	A	10	281.427	A	3	338.2505	*	15
32.75	A	10	281.428	A	3	338.2505a	A	15
32.76	A	10	281.429	A	3	338.2506	*	15
32.77	A	10	325.2651	*	3	338.2507	*	15
32.78	A	10	325.2652	*	3	338.2510a	*	15
32.79	A	10	325.2653	*	3	338.2511	*	15
32.8	A	10	325.2654	*	3	338.2514	*	15
32.81	A	10	325.2655	*	3	338.2515	A	15
32.82	A	10	325.2656	*	3	338.2516	A	15
32.83	A	10	325.2657	*	3	338.3041	*	4
32.84	A	10	325.2658	*	3	338.3043	*	4
32.85	A	10	325.52601	A	10	338.3044	*	4
32.86	A	10	325.52602	A	10	338.3102	*	4
32.87	A	10	325.60025	*	3	338.3120	*	4
32.88	A	10	336.1660	A	2	338.3123	*	4
32.89	A	10	336.1661	A	2	338.3125	*	4
205.56	*	6	336.1802a	A	12	338.3132	*	4
205.72	*	6	336.1803	*	12	338.3154	*	4
205.126	*	6	336.1821	A	12	338.3161	*	4
205.127	*	6	336.1822	A	12	338.3162	*	4
205.136	*	6	336.1823	A	12	338.3162b	*	4
247.151	R	14	336.1824	A	12	338.3162c	*	4
247.152	R	14	336.1825	A	12	338.3162d	*	4
247.153	R	14	336.1826	A	12	339.22203	*	2
247.154	R	14	336.1830	A	12	339.22213	*	2
247.155	R	14	336.1831	A	12	339.22601	*	2
247.156	R	14	336.1832	A	12	339.22602	*	2
247.161	A	14	336.1833	A	12	339.22603	*	2
247.162	A	14	336.1834	A	12	339.22604	*	2

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2007 MR Issue	R Number	Action	2007 MR Issue	R Number	Action	2007 MR Issue
339.22605	*	2	388.152	A	13	408.17613	R	10
339.22606	A	2	388.153	A	13	408.17614	R	10
339.22607	*	2	388.154	A	13	408.17615	R	10
339.22609	*	2	388.155	A	13	408.17616	R	10
339.22613	*	2	400.9101	*	2	408.17618	R	10
339.22615	*	2	400.9306	*	2	408.17620	R	10
339.22617	*	2	400.9401	*	2	408.17621	R	10
339.22631	*	2	400.9501	*	2	408.17622	R	10
339.22639	R	2	400.12101	*	2	408.17623	R	10
339.22641	R	2	400.12202	*	2	408.17624	R	10
339.22645	*	2	400.12214	A	2	408.17630	R	10
339.22651	*	2	400.12310	*	2	408.17631	R	10
339.22652	A	2	400.12312	*	2	408.17632	R	10
339.22653	R	2	400.12605	*	2	408.17633	R	10
339.22654	R	2	408.43a	*	4	408.17636	R	10
339.22655	R	2	408.43i	*	4	408.17637	R	10
339.22659	*	2	408.43k	*	4	408.17640	R	10
339.22663	R	2	408.43m	*	4	408.17641	R	10
339.22664	R	2	408.43q	*	4	408.17650	R	10
339.22665	*	2	408.61	*	8	408.17651	R	10
388.1	A	6	408.65	*	8	408.17696	R	10
388.2	A	6	408.802	*	8	408.17699	R	10
388.3	A	6	408.806	*	8	408.30801	*	14
388.4	A	6	408.833	*	8	408.30806	A	14
388.5	A	6	408.852	*	8	408.30808	*	14
388.6	A	6	408.882	*	8	408.30809	*	14
388.7	A	6	408.891	*	8	408.30810	*	14
388.8	A	6	408.4038	*	13	408.30812	*	14
388.9	A	6	408.4107	*	13	408.30818	*	14
388.1	A	6	408.4125	*	13	408.30819	*	14
388.11	A	6	408.13902	*	11	408.30821	A	14
388.12	A	6	408.17601	*	10	408.30823	*	14
388.13	A	6	408.17602	*	10	408.30826	*	14
388.14	A	6	408.17603	R	10	408.30828	*	14
388.15	A	6	408.17605	R	10	408.30834	A	14
388.16	A	6	408.17607	R	10	408.30835	*	14
388.17	A	6	408.17609	R	10	408.30867	*	14
388.18	A	6	408.17610	R	10	408.30868	*	14
388.151	A	13	408.17612	R	10	408.30869	*	14

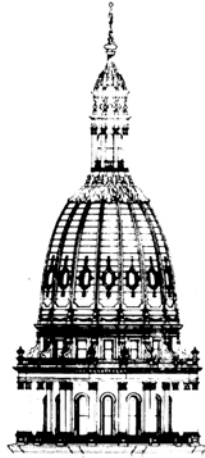
(* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)

R Number	Action	2007 MR Issue	R Number	Action	2007 MR Issue	R Number	Action	2007 MR Issue
408.30873	*	14	418.10416	*	6	432.21316	*	5
408.30901a	*	15	418.10504	A	6	432.21317	*	5
408.30905a	*	15	418.10505	A	6	432.21326	*	5
408.30906a	*	15	418.10902	*	6	432.21327	*	5
408.30907a	*	15	418.10922	*	6	432.21331	*	5
408.30908a	*	15	418.101002	*	6	432.21332	*	5
408.30909a	*	15	418.101002b	A	6	432.21333	*	5
408.30910a	*	15	418.101004	*	6	432.21335	*	5
408.30912a	A	15	418.101005	*	6	432.21336	*	5
408.30915a	*	15	418.101016	*	6	432.21406	*	5
408.30918a	*	15	418.101017	R	6	432.21408	*	5
408.30927a	*	15	418.101018	R	6	432.21410	*	5
408.30935a	*	15	418.101019	R	6	432.21412	*	5
408.30936a	*	15	418.101502	R	6	432.21413	*	5
408.30945a	*	15	418.101504	*	6	432.21416	*	5
408.30995a	*	15	421.1101	*	4	432.21417	*	5
408.42602	*	5	421.1103	*	4	432.21418	*	5
408.42605	*	5	421.1104	*	4	432.21516	*	5
408.42608	*	5	421.1108	*	4	432.21520	*	5
408.42609	*	5	421.1109	*	4	432.21609	*	5
408.42616	*	5	421.1110	*	4	432.21617	*	5
408.42624	R	5	421.1111	*	4	432.21621	*	5
408.42625	R	5	421.1301	*	4	432.21622	*	5
408.42628	*	5	421.1301	*	4	432.21623	*	5
408.42629	*	5	421.1302	*	4	432.21805	*	5
408.42634	*	5	421.1304	*	4	432.21811	*	5
408.42636	*	5	421.1305	*	4	432.22004	*	5
408.42648	*	5	421.1307	*	4	432.22005	*	5
408.42651	*	5	421.1314	*	4	432.22006	*	5
408.42655	*	5	421.1315	*	4	432.22007	*	5
408.42801	A	5	421.1316	*	4	436.1629	*	9
408.42804	A	5	431.2090	*	9	460.2701	A	3
408.42806	A	5	431.2120	*	9	460.2702	A	3
408.42809	A	5	431.3075	*	9	460.2703	A	3
418.56	*	4	431.3110	*	9	460.2704	A	3
418.10107	*	6	431.4001	*	9	460.2705	A	3
418.10202	*	6	431.4180	*	9	460.2706	A	3
418.10401	*	6	432.21305	*	5	460.2707	A	3
418.10404	*	6	432.21313	*	5	500.2211	A	9

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2007 MR Issue
500.2212	A	9
550.111	A	4
550.112	A	4
550.301	A	4
550.302	A	4
500.2201	A	9
500.2202	A	9

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)



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OAG No. 7195 (2007-9)
Allowable public investment in flexible repurchase agreements
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